Environmental Protection Agency - Region 4

Fiscal Year 1999

Enforcement & Compliance Assurance

Accomplishments Report

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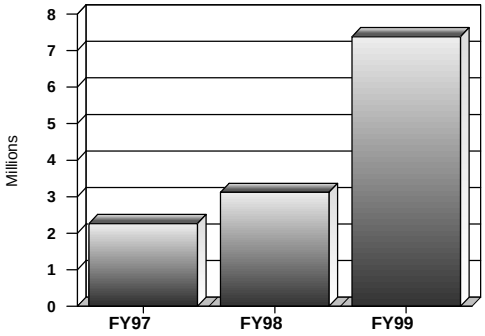
FY99 Accomplishments

The following report details the accomplishments of the Environmental Protection Agency (EPA) - Region 4 enforcement and compliance programs during fiscal year 1999 (FY99), which lasts from October 1, 1998 through September 30, 1999. EPA Region 4 encompasses eight states in the southeastern United States, including Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. By working with the environmental agencies in these states, the Region has implemented a balanced approach to environmental protection. Using a combination of enforcement, compliance incentives, and compliance assistance, the best approach for addressing environmental degradation can be achieved.

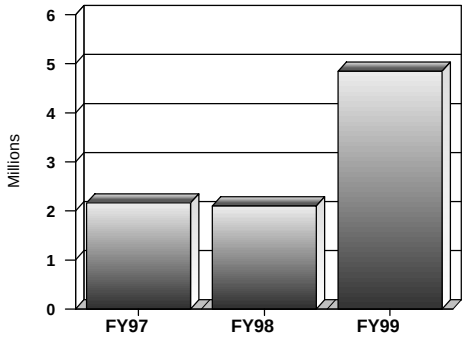
Top Accomplishments

Enforcement Cases and Penalties

EPA Region 4 continued to maintain a strong enforcement presence in FY99 by referring 56 civil cases to the Department of Justice (DOJ), the same number as in FY98 and a significant increase over years prior to that. A total of 194 Administrative Penalty Orders were issued, a slight increase over the previous year. Of the civil and adminstrative cases that were concluded in FY99, a total of $12,343,514 in penalties was assessed, and $215,957,728 in injunctive relief was imposed.



Civil Penalties



Administrative Penalties

Supplemental Environmental Projects

In FY99, Supplemental Environmental Projects (SEPs) continued to be included in civil and

administrative settlements. Nineteen percent of all concluded penalty cases contained a SEP. The Emergency Planning and Community Right-to-Know Act (EPCRA) program had the most SEP cases, while the Resource Conservation and Recovery Act (RCRA) program had the highest dollar value SEP. A total of $ 4,699,350 will be applied toward environmentally beneficial projects as a result of 37 concluded enforcement actions in Region 4.

Federal Facilities Enforcement

In FY99, EPA Region 4 concluded two precedent setting enforcement actions against Federal Facilities under the Safe Drinking Water Act (SDWA) and the Clean Air Act (CAA). On December 10, 1998, the U.S. Army and EPA reached settlement for SDWA violations at its Redstone Arsenal Support Activity facility in Huntsville, Alabama. This case was the first ever administrative penalty enforcement action against a Federal Facility under Section 1447 of the Safe Drinking Water Act amendments of 1996, 42 U.S.C. § 300j-6. On September 23, 1999, two consent agreements were filed against two Federal Bureau of Prisons facilities in Butner, North Carolina, for violations of the CAA. The North Carolina Department of Environment and Natural Resources referred the facilities to Region 4 when the Bureau of Prisons claimed sovereign immunity from the State's enforcement action. These actions mark the first time that the Region has assessed a penalty against a federal facility for violations of the CAA. In addition to paying the combined total penalty of $140,200, the Federal Facilities will implement Supplemental Environmental Projects (SEPs) totaling $1,257,000 that will reduce or eliminate pollutants from entering the environment. (Please refer to *Enforcement Case Summaries* for details of the enforcement actions)

Compliance Assistance - Automotive Repair Facilities

The Environmental Benefits Initiative (EBI) was initiated in FY97 and concluded in FY99 as a targeted multimedia effort to bring about measurable environmental benefits through compliance assurance activities in the Automotive Repair Sector in the State of Georgia. Participants in the EBI included EPA Region 4, the Georgia Environmental Protection Division (EPD), industry representatives including Georgia Pacific and Southwire Company, trade associations and the Georgia Tech Research Institute (GTRI). This project was also a national test site for the Coordinating Committee on Auto Repair (CCAR), and has been closely coordinated with the Office of Enforcement and Compliance Assurance's (OECA) Office of Compliance (OC) in the effort to measure compliance rates of this industry.

In Georgia, it was estimated that there were more than 12,000 auto service/repair facilities, including independent auto maintenance shops, paint and body shops, franchises, and dealerships. The

industry was identified by OECA in the MOA Guidance as a Significant Sector that should receive increased attention by enforcement and compliance programs. Due to the large size of this universe, the geographical dispersion of the facilities, the education level of the employees, and the minimal involvement in trade associations, this sector posed significant challenges.

In the spring of 1997, GTRI performed a baseline assessment of the compliance rate of this industry by conducting a number of audits at facilities that had never been inspected. A screening checklist developed by CCAR and OC was used to benchmark this compliance level. The data collected as part of this project fed into the national CCAR study analysis for this industry. Following this baseline, the workgroup implemented several compliance assurance activities to reach this sector, providing information to assist these facilities in complying with the regulations and preventing pollution. Examples of these activities include the following:

- Mass mailing of a brochure developed by Georgia EPD to 750+ facilities. This brochure was geared toward compliance with the Hazardous Waste and Used Oil regulations, as well as pollution prevention tips. (Mailed September 1997).

- A joint effort by the Region 4 and EPD RCRA programs to promote the use of the "Compliance Incentives for Small Businesses Policy" at facilities in this Sector. Sixty-three (63) facilities were "audited" by the agencies in the last quarter of FY97, and where violations were detected, a 100% "return to compliance rate" was achieved within the time frames outlined in the policy.

- The development of two multimedia guides to assist auto service/repair shops: (1) a laminated resource index of available information, hotlines, websites, etc. developed specifically for this sector (Mailed to approximately 10,000 shops in September 1998), and (2) an integrated multimedia brochure covering all of the environmental regulations and "best management practices" that apply to this sector. The integrated guide was distributed to shops by various compliance assistance efforts. These efforts included, among others, distribution by Georgia EPD's Pollution Prevention Assistance Division at workshops and seminars, use of the guide as a text book by the Dekalb County Technical Institute in several of their automotive repair technology courses, and member distribution by the Automotive Service Association (trade association).

GTRI personnel began environmental compliance assistance visits to auto repair facilities in early November 1998. A CCAR compliance survey was completed at each facility, and shop personnel were provided with copies of the quick-reference sheet and the guidebook. During the

course of each survey, specific recommendations were made to correct any environmental compliance deficiencies noted. During this effort, 66 shops were visited, primarily in the general vicinities of Albany, Atlanta, Gainesville, and Macon.

GTRI personnel began follow-up surveys in January 1999, to assess the impact of the earlier compliance assistance visits upon each shop's compliance status. Follow-ups were limited to a sampling of those shops which in the initial survey were found to have multiple compliance deficiencies. The most common compliance deficiencies were a lack of proper labeling of waste oil, antifreeze, and thinner/solvent tanks, along with poor housekeeping around these tanks (considerable spillage, open funnels, etc.); the second most common deficiency was improper outside storage of waste materials. Repeat surveys were conducted at a total of 14 shops, with at least two shops selected from each of the Urban and Rural setting subcategories. No Dealership shops were targeted for follow-ups, since none of these exhibited significant compliance issues in the initial survey.

Compliance assurance activities ceased in June 1999, and GTRI then conducted a post-effort assessment of the compliance rate of this industry. Overall, 64% of shops had read through the materials provided, and 80% of the compliance deficiencies cited had been corrected by the time of the follow-up survey. The actions taken by these shops in response to the recommendations made by GTRI personnel resulted in 79% of those shops coming into compliance with all of the items surveyed.

Chlorofluorocarbons Enforcement

During FY98/99, the CAA enforcement program conducted a Chlorofluorocarbons enforcement initiative. Administrative Orders were issued by the U.S. EPA to 75 companies in the Southeast as part of the Agency's CFC Motor Vehicle Air Conditioner enforcement initiative under the Clean Air Act. The facilities were mainly cited for failure to certify to EPA that they had acquired and were properly using approved motor vehicle air conditioner equipment, and that all of their personnel were properly trained and authorized to use the equipment. The environmental threat from CFCs is serious and well-documented, therefore EPA chose to aggressively enforce the laws regulating their use. In addition to the Administrative Orders, Administrative Complaints were issued to 30 companies with a collective penalty assessment of over $310,703. Investigations of recycling/disposal facilities, and large industrial sources during this period have resulted in four referrals to the Department of Justice for enforcement.

Clean Water Act - Ditching Initiative

Since July of 1999, EPA Region 4 has issued several Administrative Orders under Section

309(a) of the Clean Water Act (CWA) to developers who have illegally attempted to ditch and drain wetlands in North Carolina. The Orders require that the developers fill in illegally constructed ditches, thus restoring the wetlands. This initiative was developed in collaboration with the State of North Carolina in the aftermath of the decision in National Mining Association v. Army Corps of Engineers, 145 F.3d 1339 (D.C.Cir. 1998)("National Mining"). The National Mining case held that "incidental fallback" from excavation activities was not regulated as a discharge under the Clean Water Act. Many developers apparently adopted an overbroad interpretation of that decision and concluded that more extensive discharges in connection with ditching and excavating in wetlands were no longer regulated, and thousands of acres of wetlands were drained in a period of months. EPA, State and Corps of Engineers inspections revealed that the ditch excavation work was in many instances resulting in unpermitted stormwater discharges from ditching activities, and unpermitted discharges of dredged and/or fill material when excavated material was placed in wetlands.

The State of North Carolina and EPA have combined enforcement resources to address sites where unauthorized discharges have occurred in connection with ditching and draining activities. EPA and the State are both requiring the filling in of ditches to restore the impacted wetlands. In EPA's Orders, EPA is alleging violations of Section 402 of the Clean Water Act in connection with unpermitted stormwater discharges, and violations of Section 404 of the Clean Water Act in connection with unpermitted discharges of dredged and/or fill material. Developers have responded to State and Federal enforcement actions by filling in ditches as required by these Orders. Since issuing several orders in July of 1999, EPA has continued to inspect many ditching and draining sites in North Carolina, and is continuing to issue Orders requiring the filling in of ditches constructed with illegal discharges, in furtherance of this enforcement initiative.

Sewer Overflows

Run-off from wet weather events, including overflows from combined sewers or sanitary sewers, remains a leading cause in water quality impairment. Sewer overflows contain bacteria and other pathogens which cause illnesses. Region 4 is using a combination of compliance assurance tools to address this problem, including compliance incentives and agressive enforcement. The CWA program has implemented a compliance incentives program for santitary sewer systems to prevent overflows. In addition, EPA Region 4 and the State of Georgia concluded a civil judicial enforcement action against the City of Atlanta.

Compliance Incentives - The MOM Project is a Region 4, watershed based approach to address proper management, operation or maintenance (MOM) problems within Region 4 sewer systems and treatment plants. The MOM Project requires a regional audit, or a utility self-audit, based

on this Agency's 1995 self-audit policy, "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations." The purpose of the audit is to identify program deficiencies and violations, if any, and to develop and implement necessary program improvements to prevent sanitary sewer overflows at the sewer systems and treatment plants. Region 4 has invited Publicly Owned Treatment Works (POTWs) and their publicly owned satellite sewer systems in at least one (1) watershed of concern in each of the Region's eight (8) states per year, i.e., at least eight (8) watersheds per year. Watersheds were selected based on the priorities established by the Clean Water Action Plan, including water quality information collected and reported under Sections 303(d) and 305(b)of the Clean Water Act. In order to receive consideration under this Agency's self-audit policy, each invitee must:

- Conduct an initial system-wide (by sewershed) assessment using existing data;
- Conduct an audit of its facility;
- Identify strengths/deficiencies;
- Prepare an audit report;
- Develop an improvement plan; and,
- Certify its findings and plan for improvement to Region 4.

It is contemplated that the self-audit approach will resolve compliance problems more quickly, and in a less adversarial setting, than by using the traditional administrative and judicial enforcement approach.

Self-Audit Reports have been submitted by utilities (POTWs and satellite utilities) located in Mississippi, Alabama, Kentucky, Tennessee and Florida. A consistent review protocol for MOM self-audits is being developed. In South Carolina, all POTWs and 14 satellite utilities have elected to participate. In the State of Georgia, invitation letters have been prepared and reviewed by the State. The State of Georgia will be cosigning the letters with EPA. In North Carolina, invitation letters are being developed for five (5) utilities with input from the State. After the region reviews the self-audit reports, the region will determine the appropriate regulatory response for each utility, based on this Agency's self-audit policy requirements.

City of Atlanta - On November 5, 1999, the United States (EPA) and the State of Georgia filed a Motion to Enter the First Amended Consent Decree against Atlanta, Georgia, in the civil judicial case of The United States of America, et al. v. The City of Atlanta (1:98-CV-1956-TWT) with the United States District Court for the Northern District of Georgia, Atlanta Division. The First Amended Consent Decree resolves CWA and Georgia Water Quality Control Act (GWQCA) violations at the City's wastewater treatment facilities and collection and transmission systems and is the first instance in

which EPA has combined judicial enforcement efforts with the Georgia Environmental Protection Division (EPD) to address CWA and GWQCA violations. The First Amended Consent Decree addresses violations of conditions and terms of the City's National Pollutant Discharge Elimination System (NPDES) permits; unpermitted discharges of wastewater from the City's wastewater treatment facilities and collection and transmission systems; and failure to address pretreatment requirements. Under the terms of the First Amended Consent Decree, the City has agreed to pay a civil penalty of $700,000. The City will also implement a short-term and long-term corrective remedial action plan necessary to bring its wastewater treatment facilities and collection and transmission systems into compliance with the CWA and GWQCA within approximately fourteen (14) years. It is expected that the District Court will issue an order finalizing the terms the First Amended Consent Decree by the end of December 1999.

On September 24, 1998, the federal district court issued an order entering a Consent Decree in the cases of Upper Chattahoochee Riverkeeper Fund, el al v. The City of Atlanta (1:95-CV-2550-TWT) and The United States of America, et al. v. The City of Atlanta (1:98-CV-1956-TWT) which resolved CWA and GWQCA violations at all of the City's combined sewer overflow (CSO) facilities. Under the terms of the CSO Consent Decree, the City agreed to pay a $2.5 Million civil penalty and implement a $27.5 Million Greenway and Stream Clean-Up supplemental environmental project (Environmental Restoration SEP). The City agreed to complete all remedial action necessary to bring its combined sewer overflow facilities into compliance with the CWA and GWQCA by July 1, 2007. The City's combined civil penalty payment of $3,200,000 ($2,500,000 under the terms of the CSO Consent Decree and $700,000 under the terms of the First Amended Consent Decree) is the largest CWA penalty assessed against a municipality. The CSO Consent Decree and First Amended Consent Decree are considered by this Agency as model enforcement approaches for addressing discharges of raw or partially treated sewage (CSO and Sanitary Sewer Overflow violations) from combined sewer overflow facilities, wastewater treatment facilities and collection and transmission systems at major municipalities. [Contacts: Gwendolen Fitz-Henley (legal) and Scott Gordon (technical]

Enforcement Case Summaries

Multimedia Cases

Ashland Inc. (Kentucky) - The consent decree with the U. S. Department of Justice and Ashland Inc., was filed in Eastern District Court in Kentucky on January 22, 1999 (Civil Action No. 98-157), resolving charges that Ashland violated the Clean Air Act (CAA), Clean Water Act (CWA), Resource Conservation & Recovery Act (RCRA), the Emergency Planning and Community Right-to-

Know Act (EPCRA), and the Toxics Substances Control Act (TSCA) at its refineries in Catlettsburg, Kentucky (in EPA Region 4), St. Paul Park, Minnesota, and Canton, Ohio. Ashland has agreed to pay more than $5,800,000 in civil penalties and will spend $12,000,000 to correct its violations and $14,000,000 to perform Supplemental Environmental Projects (SEPs), such as performing air monitoring in the Tri-State area of Kentucky, Ohio and West Virginia. [Contacts: Phillip Barnett (technical) and Alan Dion (legal)]

Clean Air Act

Federal Bureau of Prisons - Federal Correctional Institute & Federal Medical Center (North Carolina) - On September 23, 1999, Region 4 filed two Consent Agreement and Consent Orders (Docket Nos. CAA-4-099-99 & CAA-4-100-99) against two Federal Bureau of Prisons' facilities in Butner, North Carolina for violations of the CAA. These actions mark the first time that Region 4 has assessed a penalty against a federal facility for violations of the CAA. The North Carolina Department of Environment and Natural Resources referred the facilities to Region 4 when the Bureau of Prisons claimed sovereign immunity from the State's enforcement action. EPA pursued the violations cited by the State which included construction of boilers and emergency generators prior to obtaining a permit, a violation of State law, and failure to make notifications required by New Source Performance Standards. For these violations, the Bureau of Prisons agreed to pay a penalty of $60,200 and to perform SEPs totaling in excess of $450,000. The SEPs include the replacement of 35 existing gasoline powered autos with natural gas powered vehicles and the construction of a natural gas pumping station at the complex. The switch to natural gas will lead to a reduction in air pollution associated with vehicle traffic within the prison complex. [Contacts: Wendell Reed (technical) or Michi Kono (legal)]

Clean Water Act

Gulf States Steel, Inc. (Alabama) - Gulf States Steel, Inc. (GSSI) owns and operates an integrated steel manufacturing facility in Gadsden, Alabama. The facility discharges treated wastewater from a central treatment lagoon to Black Creek, a water of the United States. The facility is the second largest steel manufacturing facility in the southeast and one of only three integrated steel manufacturing facilities operating in the southeast.

On October 17, 1997, the United States filed a civil action against Gulf States Steel, Inc. (Docket No. CV-97-BU-2755-M) on behalf of the Administrator of the EPA, pursuant to 33 U.S.C.§ 1319(b), seeking civil penalties and injunctive relief. The complaint alleged that GSSI discharged

pollutants into Black Creek in violation of the effluent limitations set forth in NPDES permits, and that GSSI had, therefore, discharged pollutants into navigable waters of the United States in violation of 33 U.S.C. § 1311 of the CWA. On February 5, 1999, the United States filed its motion for summary judgment.

On June 8, 1999, United States District Judge H. Dean Buttram, Jr. granted the United States' motion for summary judgment against Gulf States Steel, Inc. The Court concluded that the United States satisfied its burden to show that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law on GSSI's liability for 1000 violations of its NPDES permit from May 1, 1995 to September 30, 1998, constituting 4,290 days of violation. The remaining portions of the litigation include a trial on the penalty component and any necessary injunctive relief necessary to bring the facility into compliance with its permit and the CWA. EPA is also seeking to have the company assist in the remediation of the environmental damage sustained by Black Creek and Lake Gadsden due to the illegal discharges of pollutants by GSSI. On July 1, 1999, Gulf States Steel, Inc. filed for protection under Chapter 11 of the Bankruptcy Code as a debtor-in-possession in the United States Bankruptcy Court for the Northern District of Alabama (Docket No. 99-41958-JSS). [Contact: William T. Jones (legal)]

American Canoe Association v. Murphy Farms, Inc. et al. (North Carolina) - On January 16, 1998, the American Canoe Association (ACA) filed a citizen suit against Murphy Farms, Inc. d/b/a Murphy Family Farms, Wendell Murphy, and D.M. Farms. A Complaint and Motion to Intervene was filed on behalf of EPA by DOJ on November 19, 1998. This is the first case involving a concentrated animal feeding operation (CAFO) where the United States is a Plaintiff.

The Defendants own and operate a CAFO, a swine breeding operation called Magnolia 4 Sow farm ("Mag 4"), in Sampson County, North Carolina. The facility in question had two documented discharges in 1996 and 1997 from its facility containing more than 5800 swine, but failed to apply for and obtain an NPDES permit from the State of North Carolina, in violation of Sections 301 and 402 of the Clean Water Act, 42 U.S.C. §§ 1311, 1342. According to the State, the second discharge event involved approximately 13,500 gallons of swine waste which was discharged from a spray field into an unnamed tributary of Six Runs Creek.

On December 15, 1998, the United States District Court granted the Plaintiff's motion for a Preliminary Injunction ordering Murphy Farms to apply to the State of North Carolina for an NPDES permit for Mag 4. The Court determined that Mag 4 was a CAFO and that it had illegally discharged in the past, and therefore required to apply for a permit *at least* since the first day of discharge. The defendant appealed the decision to the Fourth Circuit Court of Appeals, and briefing on that issue was

completed June of 1999. Oral Argument is scheduled for December 1, 1999.

On April 27, 1999, the district court once again ruled in favor of EPA and the ACA granting a Motion for an Order Requiring Defendants to file an NDPES permit application for all five farms, not just Mag 4. EPA and the ACA argued, and the Judge agreed, that Mag 4 and four other farms: (1) were operated by the same entity; (2) shared a common area or system for the disposal of waste at least since January 21, 1999; and (3) also were adjoining. This is the first known decision interpreting the regulations at 40 C.F.R. § 122.26(b)(2). [Contact: Adam G. Sowatzka, Esq. (legal)]

Paul L. Smith (Alabama) - On August 19, 1997, EPA's Presiding Officer for Region 4 found Paul Smith liable for clearing approximately .32 acres and filling another .11 acres of wetlands on a 26-acre parcel of land at the west end of Terry Cove in the Orange Beach area of Baldwin County, Alabama, in violation of Section 404 of the CWA, 33 U.S.C. § 1344. On April 6, 1998, the Presiding Officer imposed a $12,000 penalty for the violations. The substantial penalty imposed by EPA was based on the fact that Smith was a flagrant violator and had been cited by the U.S. Army Corps. of Engineers on numerous occasions. Smith, a real estate developer in Mobile Alabama, has a long history of taking a "fill first, permit later" approach to land development.

On April 30, 1998, Smith appealed EPA's Order to U.S. District Court pursuant to Section 309(g)(8) of the Clean Water Act, 33 U.S.C. § 1319(g)(8). On March 31, 1999, Senior United States District Judge Virgil Pittman granted the United States' Motion for Summary Judgement upholding EPA's Administrative Order and $12,000 penalty against Paul Smith. Paul Smith v. Hankinson (No. CA-1:98-4512-P-S). The district court held that there was substantial evidence in the administrative record as a whole to support the finding and that EPA had not acted in an arbitrary or capricious manner.

Smith appealed the district court's decision to the Eleventh Circuit Court of Appeals, arguing that the district court erred when it failed to consider extra-record material when it excluded an affidavit from an expert created after the administrative decision. On October 12, 1999, the Court held that "in the absence of the affidavit the district court properly granted summary judgment to EPA and denied summary judgment to Smith." In addition, the Court held that the district court properly excluded the extra-record material because Smith failed to present the affidavit and information to EPA during the administrative process and failed to timely supplement the administrative record. [Contact: Adam G. Sowatzka, Esq. (legal)]

Central Industries, Inc. (Mississippi) - On July 30, 1999, the Department of Justice filed a Complaint (3: 99-CV-540BN) against Central Industries, Inc. (Central) on behalf of EPA in the United

States District Court in Jackson, Mississippi. The Complaint alleges violations of Sections 301 and 402 of the CWA, 42 U.S.C. §§ 1342, 1311, at its chicken rendering plant in Forest, Mississippi. Central's alleged violations include NPDES permit exceedences and unpermitted discharges. The Complaint seeks civil penalties and injunctive relief.

Central owns and operates a chicken rendering plant which receives wastes from poultry processing plants, including chicken scraps, blood, feathers, and sludge. This waste is then rendered by Central into meal and oil to be used in pet food and cosmetics, or otherwise disposed of. Central is owned by a conglomerate of large chicken producers, including Tyson Foods, Inc. The facility has a long history of compliance problems dating back to 1991. Primarily from July 1994 to August 1995, Central had a total of 2,083 violations of the NPDES permit for the following permit parameters: Biochemical Oxygen Demand (BOD), Oil and Grease (O&G), Total Suspended Solids (TSS), Dissolved Oxygen (DO), pH, Fecal, and Ammonia Nitrogen (NH3-N). In many instances, Central violated its permit by extraordinary percentages. For example, the June 1995 DMR indicates a BOD value of 4550 with a permit limit of 15; a DO value of 0.4 with a minimum permit limit of 6; a TSS value of 2775 with a permit limit of 45; an O&G value of 228 with a permit limit of 15; a nitrogen value of 897 with a permit limit of 3; and the fecal value came back TNTC (too numerous to count) with a permit limit of 4000. In addition to NPDES permit violations, the complaint alleges that the facility also had intentional direct discharges to a creek located in a National forest. The resulting statutory maximum penalty for these violations is $52,170,000. [Contacts: Adam G. Sowatzka, Esq. (legal) and Don Joe (technical)]

Condor Land Company (Florida) - On December 14, 1998, EPA Region 4 received a favorable decision in the CWA wetlands administrative enforcement case In the Matter of Condor Land Company (Docket No. CWA-404-95-106). Respondent is a Florida agricultural company owned and operated by Rosario Strano. In this mechanical land-clearing case involving 53 acres in Homestead, Florida, Administrative Law Judge Carl C. Charneski ruled in EPA's favor on all jurisdictional grounds, finding that the subject property was a wetland, the activity did constitute a discharge, and no exemption existed. Further, the decision awards EPA a penalty of $32,160, the full amount plead. The decision follows a full hearing at which EPA presented nine witnesses, including staff from U.S. Fish & Wildlife Service, Everglades National Park, Army Corps of Engineers and EPA as well as wetlands enforcement personnel from the State of Florida. The Court specifically distinguished American Mining Congress, et al. v. U.S. Army Corps of Engineers, ruling that the degree of movement of earthen material in this case exceeded "incidental fallback."

EPA filed an Administrative Penalty Order against Condor under Section 309(g) of the CWA for violations of Section 301 of the CWA in connection with mechanical land clearing and dredge and

fill activities undertaken without a section 404 permit in wetlands including willow, cypress and wetland shrubs. This area is approximately 2 miles from Everglades National Park in Dade County. Condor was previously cited by the State of Florida for clearing adjacent wetlands, including land actually owned by the State as a buffer for the Everglades. Condor did not comply with an Administrative Order issued under Section 309(a) of the CWA, requiring restoration of the property, but did cease fill activities. At last inspection the subject area was revegetating naturally. [Contacts: Melissa Allen Heath, Esq. and Philip Mancusi-Ungaro, Esq. (legal)]

ASARCO, Inc. and Encycle, Inc. (Tennessee) - ASARCO, an international mining and smelting company, and its wholly owned subsidiary, Encycle, were targeted for enforcement action in the Spring of 1995. The decision to focus on ASARCO's activities followed the discovery of multimedia violations at its facilities in several regions. Each Region worked with the U.S. Department of Justice and EPA Headquarters to negotiate a judicial settlement pertaining to the violations found therein.

In Region 4, numerous Clean Water Act discharge and sampling violations had occurred at ASARCO's six Tennessee mines. Specifically, the company had violated the terms of its NPDES permit by the following actions: 1) discharging pollutants into navigable waters through point sources, in excess of the effluent limitations established in its NPDES permit; 2) discharging process wastewater from unpermitted point sources; 3) violating record keeping and sampling/analytical requirements. The pollutants involved in these violations included total suspended solids, cadmium, copper, lead, mercury, and zinc. The Consent Decree memorializing the agreement between EPA and ASARCO was lodged on April 15, 1999, in Houston Texas and entered on October 7, 1999 (Civil Action No. H-99-1136). The portion of the Decree that pertains to Region 4 provides that ASARCO will pay $500,000 in penalties and perform an environmental restoration and protection SEP. The SEP, which will be performed at a SEP cost of $213,538, provides for the restoration of a wetland area in a four-acre flood plain along a creek. [Contact: Zylpha K. Pryor (legal)]

Georgia Department of Transportation - On February 23, 1999, EPA Region 4 entered into an Administrative Penalty Consent Order (Docket No. CWA-04-99-1504), and a Administrative Order on Consent (Docket No. 404-98-27C), with the Georgia Department of Transportation (GDOT), resolving Clean Water Act Section 301 and 404 violations in connection with a GDOT road construction project near Athens, Georgia. Under the Penalty Consent Order, GDOT was required to pay an administrative penalty of $137,500. The violation involved a road intersection project which crossed two streams, with large unstabilized banks and the culverting of several hundred linear feet of stream, all undertaken without a Clean Water Act Section 404 permit. Ultimately, the plans included approximately 1000 feet of box culverts and would not have qualified for a Nationwide permit. In

addition to the penalty, GDOT agreed to implement a stream restoration project and to provide other mitigation for the violation. The size of the penalty was in part based on GDOT's record of other Section 404 violations in prior years, but mitigated by a commitment from GDOT's Secretary to implement internal organizational restructuring designed to prevent unpermitted construction activities, or other violations by holding specific key personnel responsible. GDOT has implemented this strategy. Prior enforcement actions for other road projects in 1997 and 1998 had imposed smaller penalties and resulted in GDOT's implementation of staff and contractor training and licensing/certification programs which were expected to prevent the recurrence of additional violations. The contractor training was taking place when this violation was discovered in 1998. Since that time, the region has not discovered any other violations. [Contacts: Bob Lord (technical), Paul Schwartz (legal) and Philip Mancusi-Ungaro (legal)]

The Lakes (South Carolina) - On July 20, 1999, the United States District Court for the District of South Carolina entered a Consent Decree, resolving Clean Water Act Section 301 and 404 violations in connection with a residential development in the Myrtle Beach, South Carolina area. (U.S. v. Edward J. Edelen, III and The Lakes of Myrtle Beach, Inc., Case No. 98-1538-22-CIV-Currie (D.S.C.). In the Consent Decree, the defendant agreed to pay $1000 to the United States Treasury, preserve the remaining 21.43 acres of jurisdictional wetlands onsite, and obtain either 400 acres of jurisdictional wetlands in the watershed, or an equivalent amount of mitigation credits.

The Lakes development began in 1986 and was phased in over the next eight years. In 1986, the Corps did a preliminary jurisdictional determination on the 426-acre tract, identifying 10 acres of wetlands, and in writing told Mr. Edelen that if he planned to develop the tract, he needed a full jurisdictional determination. In 1994, the Corps was called to the site for a review of what turned out to be Phase 13 of the project and discovered that Mr. Edelen had developed approximately 200 acres of the 426-acre tract, and discharged fill into what was initially determined to be approximately 140 acres of pine flatwood and deciduous forested wetlands. When the violation was discovered in 1994, many homeowners had bought lots and were in the process of building houses when the cease and desist order was issued. As a result, many banks would not issue or complete construction loans. To resolve this, EPA worked with the Corps to issue a General Permit for only those affected homeowners to allow them to complete their houses. In settlement, EPA agreed to the penalty and the proposed mitigation which was consistent with the local Corps SOP. The parties also agreed upon a jurisdictional determination for the balance of the undeveloped property. [Contacts: Mike Wylie (technical), Melissa Heath (legal) and Philip Mancusi-Ungaro (legal)]

Comprehensive Environmental Response, Compensation, and Liability Act

The Petroleum Products Corporation (Florida) **-** On September 14, 1999, the CERCLA § 122(g)(4) De Minimis Administrative Order on Consent (Docket No.: 99-06-C) was finalized for the Petroleum Products Corporation ("PPC") Superfund Site. The settlement for the Petroleum Products Corporation Site, located in Pembroke Park, Broward County, Florida, addresses past and future response costs concerning soil and groundwater contamination involving various organic and inorganic compounds. This de minimis settlement at the PPC Superfund Site involved more than 1425 Potentially Responsible Parties (PRPs) that agreed to pay more than $ 6,500,000 in past and estimated future response costs in resolution of their alleged liability. Over 900 of these PRPs entailed service stations owned or franchised by eight major oil companies. This settlement was only available to PRPs that sent less than 100,000 gallons of waste oil to the PPC Site.

From approximately 1958 until approximately 1985, the Petroleum Products Corporation operated as a collector, broker, and processor or re-refinery of waste oil. Releases and discharges of waste oil occurred in the course of plant operations resulting in soil and groundwater contamination. EPA listed the PPC Site on the National Priorities List (NPL) in 1988. In 1991, a group of PRPs entered into a consent decree for Operable Unit (OU) #1 with the United States to pay for and conduct remediation directed at removing free floating waste oil located on the Site's water table. To date, these efforts have had very limited success.

The next phase of the Site cleanup will involve addressing the contaminated Site soils and sludges as a part of the OU#2 Record of Decision which is still under development. The de minimis settlement was based on remedial cost estimates for OU#2 involving hydraulic containment and in situ solidification technologies. These remedies are expected to cost between $10,000,000 and $20,000,000. [Contacts: Rudy C. Tanasijevich (legal) and Greg Armstrong (technical)]

Sapp Battery Superfund Site (Florida) **-** On May 11, 1999, Judge Lacy A. Collier, of the United States District Court for the Northern District of Florida, entered two separate Consent Decrees (Docket Number 94-50385/LAC), pursuant to Sections 107 and 122 of CERCLA, with five PRPs for settlement of their liability for the United States' past response costs at the Sapp Battery Superfund Site ("Site"). Under the proposed settlement, the Defendants shall pay a total of at least $2,500,000 in reimbursement of past response costs.

The Sapp Battery Site is a former battery-cracking facility near Cottondale, Florida. From 1970 to 1980, tens of thousands of spent batteries were cut open in order to recover lead for resale. Over the years, severe acid and heavy metals contamination occurred at the Site. The Site was listed on the NPL in 1982. In 1991, after ten years of study, cleanup, and settlement negotiations, EPA issued a CERCLA § 106 order to some 225 PRPs. As a result, several dozen major PRPs entered

into a consent decree with the United States to fund and undertake the cleanup at the Site, which will address contaminated soils, groundwater, and impacted wetlands through excavation/solidification, natural attenuation and monitoring. Many other entered into *de minimis* settlements. However, six of the PRPs who did not enter into the consent decree became the subject of litigation in the U.S. District Court for the Northern District of Florida. On October 2, 1997, Judge Collier ordered that summary judgment be entered in favor of the United States.

Since that time, EPA and DOJ have engaged in negotiations and court-ordered mediation with five of the six *Ben Shemper* defendants, resulting in the settlement embodied in the Consent Decrees. The remaining defendant has since filed for bankruptcy. While the settling parties will not be reimbursing the Fund for 100% of past and future costs, the Consent Decree embodies an equitable settlement for the United States and these parties and puts an end to all litigation surrounding the Site.

[Contact: Jeff S. Dehner (legal)]

Jones Tire and Battery Superfund Site (Alabama) - On August 30, 1999, Judge U.W. Clemon of the United States District Court for the Northern District of Alabama, entered a Consent Decree (Docket Number 98-C-10-19-S), pursuant to Sections 107 and 122 of CERCLA, with thirty-seven PRPs for settlement of their liability for the United States' past response costs at the Jones Tire and Battery Superfund Site (Site). Under the proposed settlement, the Defendants shall pay a total of $600,221 in reimbursement of past response costs.

From 1979 to 1991, Jones Tire and Battery operated a battery cracking facility in Birmingham, Alabama. During its operation, the company processed hundreds of thousands of batteries. As a result, the Site was heavily contaminated with lead and other hazardous substances in levels that threaten human health and the environment. EPA Region 4 conducted an emergency fund-lead removal in 1992, consisting of the relocation of local residents and excavation of contaminated soils. EPA subsequently identified a large group of PRPs who had sold batteries to the Site, and in 1993 issued a unilateral administrative order to a group of large-volume generators. A small group of PRPs ultimately undertook completion of the removal action under EPA supervision. The removal action was completed in 1995 after the remaining soils were excavated, treated, contained, and a cap-and-cover system installed on-site. Meanwhile, during 1994, EPA orchestrated a de minimis settlement in which 83 small quantity generators settled their liability for a total of $158,000. Also in 1994, the PRP group conducting the cleanup filed contribution litigation in district court against the non-participating PRPs. On April 30, 1998, the United States filed *U.S. v. Gene T. Jones, et al.* against 37 PRPs. A two-day mediation was held in Birmingham in September 1998, which ultimately yielded the Consent Decree settling this matter. [Contacts: Jeff S. Dehner (legal) and Anne Mayweather (technical)]

Solitron Devices Superfund Site (Florida) - On September 29, 1999, Region 4 finalized a Prospective Purchaser Agreement (PPA) with the purchaser of the Solitron Devices Superfund Site (Site) in Riviera Beach, Florida (Docket Number: 99-38-C). In return for an EPA covenant not to sue, the prospective purchaser, The National Land Company, agreed to pay $419,000 in consideration, which will be applied to response costs at the Site. The proposed future use of the property is as a warehouse and distribution center which will not store hazardous substances, nor exacerbate existing contamination.

The Site is a defunct electronics manufacturing facility located in Riviera Beach, Palm Beach County, Florida. Honeywell Inc. owned the property from 1959 until 1965. In 1965, Honeywell sold the property to Solitron Devices, Inc., the Site's current owner. For an unknown period during 1959 to 1969, discharges from the Honeywell and Solitron facilities to the local sanitary sewer system were untreated. Subsequently, the sewer line corroded and allowed untreated discharges to reach the groundwater. Contaminants from the manufacturing process include organic solvents which can now be detected in the area groundwater. Contaminants detected in groundwater above background concentrations included chlorobenzene, trichloroethene and its break down constituents including1,2-dichloroethene (total) and vinyl chloride, ethyl benzene, toluene, xylene (total), 1,2-dichlorobenzene, 1,4-dichlorobenzene, 2,4-dichlorophenol, aluminum, arsenic, chromium, nickel, sodium, vanadium, zinc, and cyanide. Elevated concentrations of semi-volatile organics, pesticides, and inorganics were also detected in the surface and subsurface soil samples. Elevated concentrations of pesticides and inorganics were noted in sediments. The groundwater pathway is a major concern and the safety of the drinking water supply of area residents is currently being addressed through a pump and treat system at the City of Riviera Beach well fields.

This Site is an NPL caliber site, but was not listed due to an early action initiative that allows deferment of NPL listing when there are cooperative PRPs and a strategic reason to defer listing. In this case, Honeywell has indicated that it is willing to remediate the Site and a determination was made that the property would be purchased and returned to productive use more quickly if it was not listed on the NPL. [Contacts: Kathleen Wright (legal) and Pam Scully (technical)]

Talisman Sugar Corporation Property (Florida) - On November 10, 1998, EPA entered into a CERCLA Prospective Purchaser Agreement (Docket Number 99-41-C) with The Nature Conservancy and the South Florida Water Management District, protecting them from CERCLA liability that might arise upon their purchase of Talisman Sugar Corporation properties in the Everglades Agricultural Area in South Florida for Everglades restoration purposes.

The Nature Conservancy (TNC), the South Florida Water Management District (the District)

and the U. S. Department of the Interior (Interior) have entered into a Cooperative Agreement whereby each has agreed to participate in an Everglades restoration program that will convert Everglades property from sugar farming to Everglades restoration purposes. Under the Cooperative Agreement, Interior will fund the acquisition of property, TNC will be the purchaser, and TNC will swap farm-appropriate parcels for parcels that will be used for Everglades restoration, and transfer other parcels that will be useful for Everglades restoration purposes to the District. TNC had entered into a Purchase and Sale Agreement with Talisman Sugar Corporation (Talisman) to acquire more than 50,000 acres of property in Palm Beach and Hendry Counties, Florida.

There are no EPA Superfund response actions presently contemplated on the property, but there are some areas of the property that are known to be significantly contaminated from past sugar farming activities. Although Talisman is obligated under the Purchase and Sale Agreement to remediate contaminated areas before transferring possession, TNC and the District were reluctant to go through with the transaction without the protection conferred by the PPA. The PPA requires the Respondents to fulfill their obligations under the Cooperative Agreement with Interior, where each has specific roles in carrying out plans for Everglades restoration, and to grant access to EPA in the event that EPA does conduct any response actions on the Property. The covenant not to sue that is granted to TNC and the District in the PPA is justified by the substantial public interest and environmental benefits to be achieved by converting property to Everglades restoration purposes. [Contact: Paul Schwartz (legal)]

APF Industries Superfund Site (Florida) - On June 11, 1999, the federal district court granted the Government's motion to enter the Consent Decree [97-2648-CIV-T-23(B)] settling an underlying cost recovery action resulting from a removal action at the APF Industries, Inc. facility in St. Petersburg, Florida. On October 30, 1998, DOJ filed a civil action in federal district court in Tampa, Florida, for CERCLA cost recovery against Daniel Wettreich, individually and also against the trustees of the Wettreich Heritage Trust, i.e., Zara Wettreich and Hermina, Inc., for removal costs incurred by EPA at APF Industries, Inc. in St. Petersburg, Florida. Mr. Wettreich served as president of APF for a year prior to abandoning the site to a bankruptcy trustee. The claim was settled for $40,000 based on litigation risks.

The Site was owned and operated by APF as an electroplating facility from approximately 1963 until it was abandoned in September 1990 upon APF's conversion petition from Chapter 11 bankruptcy to Chapter 7 bankruptcy. Wettreich was president of APF from October 6, 1989, until the Site was abandoned on or about September 11, 1990. He had no prior connection with either the company or the Site. Subsequently, during 1992 and 1993, EPA conducted a removal action at the Site during which the Agency incurred response costs in excess of $1,500,000. [Contact: David S.

Engle (legal)]

W & R Drum (Tennessee) - On September 20, 1999, Judge Jon P. McCalla of the United States District Court for the Western District of Tennessee entered a Partial Consent Decree (Civil Action No. 98-2704 MI BRE) with forty arranger PRPs for the W & R Drum Superfund Site (Site). This settlement, pursuant to Section 107(a) of CERCLA, provides for the reimbursement by these PRPs of $941,000 in response costs incurred by EPA in responding to the release of hazardous substances at the Site.

The initial Complaint in this case was filed on August 14, 1998, against the operator of the Site, Mr. Johnny Williams, and two of the arranger PRPs, Lilly Industries, Inc. (Lilly) and Baptist Memorial Hospital, in the U.S. District Court for the Western District of Tennessee. An Amended Complaint was filed on October 30, 1998, naming additional settling arranger PRPs that sent drums containing hazardous substances to the Site. The United States ultimately reached an agreement with forty of the arranger PRPs for $941,000 of response costs incurred by EPA and DOJ. The Motion to Enter the Partial Consent Decree with the forty arranger PRPs was filed on August 27, 1999. In addition to this settlement, The United States has reached an agreement in principal with Lilly for the reimbursement of an additional $560,000 of EPA's and DOJ's response costs. The United States filed a Motion to Lodge this Partial Consent Decree which embodies the proposed settlement with Lilly on September 3, 1999. Further, the United States filed a Motion for Summary Judgment against the operator of the Site, Mr. Johnnie Williams, on September 3, 1999.

The Site is located in Memphis, Shelby County, Tennessee. W & R Drum was a drum recycling business owned and operated by Mr. Johnnie Williams from the early 1980's until 1994. W & R Drum reconditioned 55-gallon drums containing residual waste that were used for various products ranging from printing inks, paints, glues, waste oils, and solvents. Soil samples revealed the Site was contaminated with lead, chromium, and a variety of organic constituents. On July 6, 1994, EPA began a time-critical, fund-lead removal action at the Site which included the removal of nearly 30,000 drums and excavation of contaminated soil. To date, EPA and DOJ have incurred approximately $1,955,954 in response costs for removal and related enforcement activities at the Site. [Contact: Alyse Hakami (legal)]

Clearwater Finishing (South Carolina) - Clearwater Finishing Site (the Site) is located at U.S. Highway 1 and State Road 126 in Clearwater, Aiken County, South Carolina and encompasses approximately 55 acres. The Site was a former textile manufacturing facility operating from the early 1920's. The facility was purchased in 1989 by Clearwater Finishing and continued the same operations under new management until its closing on July 4, 1990. Clearwater Finishing filed for Chapter 11

Bankruptcy around June 28, 1990.

In January 1994, EPA was contacted by the State of South Carolina Department of Health and Environmental Control (SCDHEC). EPA conducted two Site inspections, one in January 1994 and again in April 1994 where they observed 2,694 drums in various stages of deterioration containing spent dyes, 27 above ground storage tanks containing acids, solvents and caustics, one underground storage tank, three lab areas and asbestos material. EPA began its emergency removal action on August 1, 1994, and it was completed on or about August 11, 1995. EPA reached agreements with the following PRPs:

- **NationsBank** - EPA alleged that the lender participated in management at the facility by exercising decision making control over the environmental compliance related to the facility. Further, the lender failed to liquidate equipment and inventory at the facility in a "commercially reasonable" manner. The United States and NationsBank reached a settlement in the amount of $300,000. The Consent Decree memorializing this settlement was entered on September 21, 1999. (United States v. NationsBank, N.A., Civil Action No: 1:99-0264-08)

- **Aiken County** - In December of 1992, Aiken County foreclosed and purchased the Site. The County then caused and contributed to the release. After learning that the County planned to sell the property, EPA placed a federal lien upon the property on September 24, 1998. Since that time, EPA and various County representatives have had ongoing settlement discussions. The County and EPA ultimately reached a settlement in the amount of $250,000. The settlement terms are memorized in a judicial Consent Decree entered on October 18, 1999. (United States v. NationsBank, N.A., Civil Action No: 1:99-0264-08)

- **Robert W. Neal** - Neal was an operator at the facility from July 4, 1990 until August 5, 1993. Neal was also a transporter of hazardous substances to the facility. He brought drums of chemicals and dyes from another facility he owns and abandoned them at Clearwater. Mr. Neal and EPA reached a settlement in the amount of $300,000. The judicial Consent Decree memorializing this agreement was entered on October 18, 1999. (United States v. NationsBank, N.A., Civil Action No: 1:99-0264-08.)

South Carolina's Voluntary Clean-Up program selected Clearwater as its first candidate for the program. The purchaser of the Site property promised to perform state required monitoring, assessing and clean-up under state oversight. The estimated value of this work exceeded $150,000. When EPA placed the lien upon the property, the purchase was postponed pending a resolution of EPA's cost recovery claim against the County. In the face of incurring potential liability at the Site, the

purchaser requested a Prospective Purchaser Agreement (PPA) within which EPA would grant a covenant not to sue for existing contamination and contribution protection. Absent EPA and the purchaser entering into the PPA, the County would not have funds to reimburse EPA for past costs and additional assessment with state oversight would not have occurred. The consideration for the sale of the property was utilized by the County to reimburse EPA's past costs. The PPA was finalized on September 17, 1999. (EPA Docket Number 99-33-C). [Contact: Elizabeth Cox (legal)]

U. S. vs. Charles Foushee, Jr., Caldwell Industrial Services, Inc., and Caldwell Systems, Inc. (North Carolina) - On December 15, 1998, a consent decree was entered in the U.S. District Court of the Western District of North Carolina (Civil Action # 5:98CV124-V) with Charles Foushee, Jr., Caldwell Industrial Services, Inc., and Caldwell Systems, Inc., (Settling Defendants). In the Consent Decree, the Settling Defendants agreed to reimburse the United States for $141,500 in past CERCLA response costs. The Settling Defendants alleged that they were financially unable to reimburse the United States for all of the unreimbursed past costs and they submitted financial information to the United States to support that claim. This financial information was reviewed by financial analysts at EPA and the Department of Justice. The Consent Decree provided the Settling Defendants with a covenant not to sue under Sections 106 and 107 of CERCLA with respect to the Site. The covenant is premised solely on the limited ability to pay of the Settling Defendants. The United States retained its rights to pursue the Settling Defendants with respect to the landfill. The United States, in a separate agreement, settled with forty-two generator defendants and Caldwell County pursuant to a Consent Decree. The United States also settled with 360 de minimis generators pursuant to two Administrative Orders on Consent.

The Site consists of a former RCRA interim status incinerator facility and an adjacent property referred to as the Haas Farm. Adjacent to the Site is the Caldwell County Landfill, a municipal/industrial waste landfill. At the incinerator, wastes such as solvents, cutting oils, paint residue, contaminated fuels, resins, glues, lacquer dusts, and remediation wastes from Superfund sites were incinerated. Records indicated that approximately 940 companies and governmental agencies sent waste to the Site. The Site was operated from the mid-1970s until the late 1980s. In 1990, EPA issued RCRA Section 3008(h) orders to the owner and operators of the Site. Those orders were never enforced. In 1990, EPA and ATSDR began a series of CERCLA and health investigations at the Site which eventually totaled more than $5.1 million in costs. [Contact: Janet Magnuson (legal)]

Federal Insecticide, Fungicide, & Rodenticide Act

Hunter Fan Company (Tennessee) - On September 30, 1999, Region 4 filed an Administrative Complaint in the matter of Hunter Fan Company. The complaint alleged the sale and

distribution of an unregistered pesticide, a misbranded pesticide, and misbranded pesticidal devices. The following products were in question: "The Healthy Humidifier *plus*" and the "HEPAtech Air Purification System" product line. On October 4, 1999, a settlement agreement was reached and Hunter Fan Company agreed to pay a penalty of $105,600 (Docket Number FIFRA 4-037-99).

A completely revised label has been completed along with placarding requirements for the original labeled product, "The Healthy Humidifier plus." Under the Consent Agreement and Final Order, Hunter Fan Company will introduce "The Care-Free Humidifier plus" and the "HEPAtech Air Purification System" into the marketplace by November 15, 1999. EPA continues to emphasize enforcement against noncomplying antimicrobial pesticides with public health claims. [Contacts: Mark Bloeth (technical) and Alan Dion (legal)]

Safe and Sure Products, Inc. and Lester Workman (Florida)- On July 27, 1999, the Environmental Appeals Board (EAB) issued its final decision (Docket No. 04-907003-C 98-4) in the matter of Safe and Sure Products, Inc. and Lester J. Workman, concerning alleged violations of FIFRA. The EAB upheld the initial decision of the Administrative Law Judge in finding that both Safe and Sure and Lester Workman were jointly and severally liable for 84 violations of FIFRA, and affirmed the fine of $30,000.

Pinex, Inc. and Roy L. Davis (South Carolina) - On May 12, 1999, the U.S. Attorney's Office for the District of South Carolina collected a $1,300 settlement from Roy L. Davis, former proprietor of Pinex, Inc., for an unpaid penalty. Region 4 filed an administrative complaint against Pinex and Mr. Davis on June 7, 1996, for failure to register a pesticide and failure to properly label pesticide containers. Mr. Davis had been found in default in a FIFRA enforcement action, and the matter had been referred to DOJ for collection.

Resource Conservation & Recovery Act

Flura (Tennessee) - Flura is located in Newport, Tennessee and has been operating since 1988. The facility is a laboratory which primarily synthesizes fluoridated bromine compounds. Flura utilizes a large volume and variety of chemicals and gases. On March 23, 1999, and April 22, 1999, the Tennessee Department of Environment and Conservation (TDEC) inspected the facility. Flura was cited for numerous significant violations: failure to make hazardous waste determinations, storage without a permit, illegal treatment, failure to determine the tank systems integrity, and releases of hazardous waste and/or hazardous constituents from a leaking 20,000 gallon wastewater tank and from other mismanagement of materials and wastes. On March 23, 1999, sampling of residential wells located near the facility conducted by TDEC indicated elevated levels of cyanide at 0.02 mg/l.

On March 25, 1999, a contractor for TDEC determined that the facility's 20,000 gallon leaking wastewater tank was at the point of catastrophic failure. Analytical results from this wastewater tank indicated the wastewater was hazardous waste 1,2-dichloroethane at 18 ppm (regulatory limit of 0.5 ppm). Other constituents below regulatory limits were: arsenic, barium, cadmium, chromium, lead, toluene, xylene, and cyanide. An EPA Superfund removal was performed on April 27, 1999. All wastewater from a 20,000 gallon wastewater tank was removed and placed in a temporary tank brought on-site by EPA Superfund.

On June 17, 1999, EPA issued a RCRA Section 7003 Imminent and Substantial Endangerment Order to Flura (Docket No. RCRA-4-99-010). The Order essentially required the facility to properly manage its hazardous waste and hazardous constituents and operate its facility in a manner which protects human health and the environment. [Contacts: Kristin Lippert (technical) and Judy Marshall (legal)]

Fabra Care (Georgia) - On September 3, 1999, EPA issued a RCRA Section 7003 Imminent and Substantial Endangerment Order (Docket No. RCRA-4-99-011) against Fabra Care, a dry cleaner located in Fort Valley, Georgia, for Perchloroethylene (perc) contamination from its facility. The perc had also jeopardized the city's water supply wells. This order was issued after a joint SDWA/RCRA investigation linked the perc contamination in the city's supply wells with the Fabra Care facility. Media addressed in the Order include groundwater, soil, surface water, and sediment contamination. In addition to the perc, other pollutants of concern are: trichloroethylene, cis- and trans-1,2-dichloroethylene, vinyl chloride and any other breakdown products and/or additives such as ethene, methane, ethane, propane, propene, Freon 113, trimethylbenzene isomers, and the metals manganese and arsenic. The Order requires Fabra Care to characterize and clean up all contamination, as well as ensure that the City has an adequate water supply from alternate wells. [Contacts: Edmond Burks (technical) and Mita Ghosh (legal)]

Tennessee Eastman (Tennessee)- On September 7, 1999, EPA Region 4 issued and settled a major administrative enforcement action (Docket No. RCRA-4-99-013) against Tennessee Eastman, which included a civil penalty of $2,750,000. The facility failed to accurately monitor the amount of hazardous waste burned in seven boilers at its facility from December 1995 through August 1996. The violation represented a threat to human health and the environment due to the possibility of burning hazardous waste in excess of the boiler's feed rate limits. [Contacts: Javier Garcia (technical) and Mary Greene (legal)]

Hickson Corporation (Georgia) - Hickson Corporation is located in Conley, Georgia. The facility is a producer of wood treating chemicals used by facilities treating lumber with copper-

chromated-arsenic (CCA) solution. During three separate inspections conducted by Georgia Environmental Protection Division and EPA in the past three years, Hickson was discovered to be illegally storing/disposing of hazardous wastes D004 (Arsenic) and D007 (Chromium) in two areas at the facility.

On September 17, 1999, the Administrative Consent Order (Docket No. RCRA-4-99-0014) was issued requiring RCRA closure of the illegal hazardous waste storage/disposal units, payment of a penalty of $169,000, and the implementation of a SEP valued at $31,000. As part of the SEP, the facility will construct a roof over the active portion of the plant where hazardous waste is generated. This will prevent rain water from falling in that area and contaminants leaching into the ground and potentially groundwater. [Contacts: Daryl Himes (technical) and Judy Marshall (legal)]

Wolverine Tube, Inc. (Alabama) - On September 29, 1999, EPA issued an Administrative Order on Consent (Docket No. RCRA-99-0021) pursuant to RCRA Section 3008(h) to conduct Corrective Measures Implementation at Wolverine Tube, Inc., located in Decatur, Alabama. This is the second such Order issued by the region to compel final remediation activities. The terms of the Order require Wolverine to remediate soil contamination, pump and treat a large groundwater contaminant plume until clean-up goals are achieved, and to conduct long-term monitoring and maintenance of an on-site disposal area. [Contacts: Anna Torgrimson (technical) and Mita Ghosh (legal)]

Safe Drinking Water Act

U.S. Army - Redstone Arsenal Support Activity (Alabama) - This case was the first ever administrative action against a Federal Facility under Section 1447 of the Safe Drinking Water Act amendments of 1996, 42 U.S.C. § 300j-6. On April 7, 1998, Region 4 filed an Administrative Complaint against Redstone for violations of the SDWA (Docket No. PWS-APO-98-01). The violations were discovered during a 1997 multimedia inspection which revealed violations including the Surface Water Treatment Rule, Total Coliform Rule, and Public Notification Rule, including a maximum contaminant level (MCL) violation of total coliform. Redstone also failed to properly operate and maintain their storage tanks and reservoirs, properly maintain a water main flushing program, and maintain a disinfectant residual in the distribution system to meet the MCL of total coliforms.

On December 10, 1998, following mediation with Administrative Law Judge Thomas Hoya, EPA and Redstone reached a settlement. The $887,000 settlement included $80,000 in penalties and $807,000 in SEPs, and was the largest SDWA settlement ever in the Region. The $807,000 in SEPs entails improvements to Redstone's water system, including a state-of-the-art computer chlorine monitoring system to enhance water quality by allowing the facility to measure chlorine residual on a

continuous, ongoing basis (a pollution prevention/reduction SEP). In addition, operating software for a water treatment plant will be upgraded, the facility will install new hydrants for its flushing system, and complete construction projects to address water stagnation problems in some of the supply lines. [Contacts: Adam G. Sowatzka Esq. (legal) and Lisa J. Uhl (technical)]

JAF Oil Company, Inc., Peter E. Jolly and Strategic Investments, Inc.(Kentucky) - On April 19, 1999, the U.S. District Court for the Western District of Kentucky, Owensboro Division, issued an Order granting permanent injunction against all defendants and civil penalties totaling $1,500,000 in the Underground Injection Control (UIC) case U.S. v. JAF Oil Company, Inc., Peter E. Jolly, and Strategic Investments, Inc. (Civil Action No. 4:95-CV-169-M). In a scathing decision detailing the delays, improper filings and other misdeeds of the defendants, the Court ordered that not only the present defendants, but also "any entity owned or operated in part by Peter Jolly shall immediately and permanently cease all injection operations" at the subject site. In granting EPA's motion for a "significant" penalty, the Court states that it assumed no actual groundwater contamination and considered economic impact in favor of defendants, but imposed a penalty of $500,000 on each. The decision includes excellent discussion of the Safe Drinking Water Act statutory factors and the seriousness of UIC violations.

The Court granted the government's motions for summary judgment against all defendants on March 3, 1998, establishing liability. On July 17, 1998, the U.S. Circuit Court for the 6th Circuit denied defendants' appeal of that decision. Region 4's case against JAF and Jolly was commenced to enforce the terms of an administrative order (AO) issued against JAF in 1992 for UIC violations. JAF subsequently transferred operations to another of Jolly's corporations, Strategic Investments. The action involved violations related to 89 injection wells in Kentucky, which inject brine for the enhanced recovery of oil. Jolly, president and principal owner of both corporations, has been found liable individually. [Contact: Melissa Allen Heath, Esq. (legal)]

Gerry Click (Florida) - On September 21, 1999, the U.S. District Court for the Northern District of Florida entered default judgment against defendant Gerry Click in U. S. v. Gerry Click, (Docket No. 3:98cv255/LAC), a SDWA UIC case. In its default judgment order, the Court imposed a penalty of $768,750.

In its Complaint, the United States had alleged that the defendant, Gerry Click, violated the SDWA in connection with his operation of a Santa Rosa County, Florida underground injection well used to dispose of brine water generated during oil and gas production. The Complaint further alleged that the defendant had deliberately falsified information provided to regulators in order to hide the fact that the disposal well was being operated without mechanical integrity, resulting in the release of

benzene-contaminated saltwater into underground sources of drinking water. The default judgement was entered because the defendant did not comply with discovery obligations during the litigation, and the United States filed a Motion to Compel Discovery, which was granted. The defendant then failed to comply with the Court's Order to serve answers to interrogatories or show cause why he should not be held in contempt. The Court therefore entered a default judgment against the defendant, imposing a $768,750 penalty, which is the amount requested by the United States. [Contacts: Scott Hoskins (technical) and Paul Schwartz (legal)]

Toxic Substances Control Act

Logan Heating and Air Conditioning, Inc., and Jones, Fowler, and Beers (North Carolina) - The region issued a civil administrative complaint to Logan Heating and Air and Jones, Fowler, and Beers (general contractor) for renovation activities conducted in the Winston-Salem/Forsyth County School District that resulted in the disturbance of thermal insulating asbestos-containing materials. The complaint alleged the use of unaccredited workers to conduct the renovation activities. The Consent Agreement and Consent Orders (Docket No. TSCA-4-015-99, TSCAIV-97-A052D) were issued and the cases settled for a mitigated penalty of $5,000 each during FY99. [Contacts: Alfreda Freeman (technical) and Keith Bates (legal)]

Ciba Specialty Chemicals (Alabama) - During FY98, the Region 4 Toxics program received two self-audit disclosures from Ciba Specialty Chemicals located in McIntosh, Alabama regarding several occasions where they had failed to comply with the notice requirements found at 40 C.F.R. §747.200. The company was required to provide notice to any purchasers of tricarboxylic acid and/or triethanolamine salt of tricarboxylic acid that they should not add any nitrating agents to this material because of the toxic byproducts that may be formed. Ciba had failed to provide such notice and had discovered this as part of conducting its own self-audits. The first audit submission was handled under the self-audit policy. The second submission was settled as a voluntary self disclosure which fell outside of the self-audit policy. Ciba entered into a Consent Order on October 26, 1998, and agreed to pay a penalty of $2,310 (Docket No. TSCA-IV-98-TSC12). To our knowledge, these cases were the first non-PCB, non-asbestos TSCA Section 6 cases that have been handled by EPA. [Contacts: Doug Gaines (technical) and Melissa Raack (legal)]

Criminal Enforcement

LCP Chemicals (Georgia) - LCP Chemicals-Georgia (LCP), a division of Hanlin Group, Inc. (Hanlin), is a 550-acre facility located in Brunswick, Georgia. LCP, a chlor-alkali plant, formerly

produced chlorine, sodium hydroxide and muriatic acid. LCP shut down operations in February of 1994. EPA-Crimnal Investigation Division began an investigation of the facility shortly after the shutdown and discovered evidence of numerous criminal environmental violations. The significant violations included continuous violation of the plant's NPDES permit limits for mercury, chlorine and pH. In addition, mercury contaminated waste was illegally disposed of and stored at various locations around the facility. Mercury contaminated wastewater with a pH of over 12.5 was stored on the ground floor of the two buildings on site where employees had to work, exposing them to serious injury if they were to fall in the wastewater. The storage of mercury contaminated waste, such as caustic filter backwash muds and muds from their wastewater treatment plant, also contributed to high mercury vapors, further exposing the workers to risk of serious bodily injury. In addition, releases of hazardous substances were not reported to the National Response Center.

On May 28, 1998, Christian A. Hansen, former chief executive officer of Hanlin, Randall W. Hansen, former chief operating officer of Hanlin, Alfred R. Taylor, former plant manager, and D. Brent Hanson, former environmental manager, were indicted in United States District Court for the Southern District of Georgia. The indictment includes 42 counts of violations of the environmental laws, including RCRA, CERCLA, CWA, and knowing endangerment.

On January 15, 1999, a jury in federal court in Brunswick, Georgia found Christian A. .Hansen, Randall W. Hansen, and Alfred R. Taylor, guilty of the knowing endangerment of plant workers, one of very few knowing endangerment verdicts in the country. In addition, Christian A. Hansen was found guilty of a total of 41 counts which included conspiracy, violations of RCRA, CERCLA and the CWA. Randall W. Hansen was found guilty on 34 counts and Al Taylor was found guilty on 20 counts. Before the trial began, three mid-level managers, including Brent Hanson, pled guilty to violating environmental laws and cooperated in the government's investigation. On July 28, 1998, the corporation pled guilty to seven counts of violating environmental laws including RCRA, CERCLA, CWA, ESA and conspiracy. Christian A. Hansen was sentenced to nine years incarceration, Randall Hansen was sentenced to almost 4 years (46 months) incarceration, Al Taylor was sentenced to six and one-half years incarceration, Brent Hanson was sentenced to 18 months incarceration, Chris Dunn was sentenced to nine months incarceration, and Duane Outhwaite was sentenced to probation. [Contacts: Special Agent Paul Okerberg (technical) and Elizabeth Obenshain (legal)]

***Dalton Utilities (Georgia)* -** This investigation began in the early Spring of 1994 and involved Dalton Utilities, a municipally owned, but privately operated utility company that supplies drinking water, electricity, natural gas and sewage treatment to the city of Dalton, Georgia. The facility operates a daily maximum of 40 mg/d and serves the carpet mills that comprise 80% of the world's carpet production. This treatment plant is also the fourth largest in the state of Georgia and utilizes one

of the largest land application treatment facilities in North America. The case was investigated by both the EPA and the FBI, with the assistance of the U.S. DOJ Environmental Crimes Section, the Department of Transportation's (DOT) Office of Inspector General (OIG), the Bureau of Alcohol, Tobacco, and Firearms, and the Federal Emergency Management Agency (FEMA) OIG. The Georgia Department of Natural Resources Environmental Protection Division and the Wildlife Resources Law Enforcement Division provided technical and investigative assistance.

The investigation uncovered allegations of sewerage overflows, non permitted point source discharges, tampering with monitoring wells, falsification of monthly operating reports, filing a false claim with FEMA, filing false gas pipeline statements to the DOT and employing an armed security guard with 14 felony convictions. The U.S. Attorneys Office accepted a plea on September 9, 1999 for five corporate felony false statements (18 U.S.C. 1001) for falsifying monthly operating reports that were sent to the state. They are also recommending a monetary penalty of $1 million. Sentencing is scheduled for November 19, 1999. A civil investigation and suit are pending. [Contacts: Special Agent Dave McLeod (technical) and Elizabeth Obenshain (legal)]

Kelly Spraying Service (Mississippi, Tennessee and Arkansas) - This investigation began during the fall of 1997 and uncovered the same pattern of methyl parathion misuse that became evident throughout the South and Midwest. It involved Kelly's Spraying Service that was operated by Robert Kelly, Sr., his father and son. The Kellys had illegally sprayed hundreds of homes with methyl parathion throughout Arkansas, Mississippi and Tennessee for many years. They caused six families to be relocated from their homes and cost taxpayers approximately $6 million. On October 6, 1998, following an eight-day trial, Robert Kelly, Sr was found guilty of twenty counts of pesticide misuse. His son Robert Kelly, Jr was acquitted. On December 30, 1998, Robert Kelly, Sr was sentenced to serve 20 months in prison and pay $250,000 restitution. However, both the U.S. Attorneys Office and the U.S. Department of Justice Environmental Crimes Section (ECS) have appealed this sentence. ECS and the Tennessee Department of Agriculture assisted with the investigation and prosecution of this case. [Contacts: Special Agent Dave McLeod (technical) and Rich Glaze (legal)]

Colonial Pipeline (South Carolina) - The investigation began as a result of a leak which occurred in the portion of the Colonial Pipeline that crosses the Reedy River near Simpsonville, South Carolina, resulting in an approximate 1.2 million gallon diesel spill that polluted a 23-mile segment of the river. The spill ranks as the sixth largest oil spill in U.S. history. The incident killed fish and caused harm to other wildlife. Colonial Pipeline pleaded guilty in U.S. District Court in South Carolina to violations of the Clean Water Act. Colonial acknowledged that it had negligently operated the pipeline and that the company's failure to exercise reasonable care resulted in the release of the fuel. Colonial was assessed a $7,000,000 fine and a five-year probation term during which the company must

develop and implement an environmental compliance program to prevent and detect any further Clean Water Act violations on a 5,318 mile pipeline it operates from Houston, Texas, to Linden, New Jersey.
[Contacts: Special Agent Becky Barnes (technical) and Elizabeth Obenshain (legal)]

M&S Petroleum, Inc. (Mississippi) - In July 1999, a federal jury found John R. Cooke, an executive and part owner of M&S Petroleum, Inc., guilty of one count of conspiracy, four counts of violating RCRA, two counts of violating the CAA, and three counts of making false statements. M&S Petroleum, Inc. operated the Barrett Refinery south of Vicksburg, Mississippi. Between April 1995 and May 1996, Cooke engaged in a conspiracy to violate the CWA by discharging pollutants into the Mississippi River and Hatcher Bayou, to make false statements to the Mississippi Department of Environmental Quality (MDEQ), and to intentionally not perform required environmental testing at the refinery. The result of the conspiracy was the unpermitted discharge of benzene and other pollutants into the Mississippi River and Hatcher Bayou south of Vicksburg and the release of benzene into the air. In sufficient quantities, benzene is acutely toxic and is also a cause of cancer. In addition, more than one million gallons of hazardous waste was abandoned at the refinery in violation of RCRA.

Cooke was sentenced on October 25, 1999, to serve 29 months in prison, serve three years of supervised release and pay $6,000 in fines and special assessments by the U.S. District Court for the Southern District of Mississippi in Natchez. For their role in this crime, Barrett Refining was ordered to pay a $25,000 fine and serve 36 months probation, Barrett's part owner Donald Mullins was sentenced to three years of supervised probation and 150 hours of community service, and M&S Petroleum was sentenced to pay a $25,000 fine and serve five years probation. The case was investigated by EPA's Criminal Investigation Division with the assistance of EPA's National Enforcement Investigations Center and EPA Region 4, the Inspector General's Office of U.S. Department of Transportation, the FBI, and the MDEQ, and was prosecuted by U.S. DOJ.
[Contacts: Special Agent Dave McLeod (technical) and Rich Glaze (legal)]

Bay Drum and Steel (Florida) - On August 16, 1999, Gary Benkovitz, Bay Drum and Steel's owner, was sentenced to 13 years in prison, the longest environmental sentence ever imposed, for violations of the CWA and RCRA. Bay Drum and Steel (Bay Drum) was a drum washing facility in Tampa, Florida. They washed used metal and plastic drums that had contained a variety of products including pesticides, solvents, acids, and caustics. The process included spraying a methylene chloride solution on the labels to aid in their removal, soaking the drums in a caustic solution, pressure washing the drums, drying the drums, and painting them if necessary. Bay Drum was not permitted to accept hazardous waste, but the criminal investigation revealed that they routinely accepted drums that contained hazardous waste and introduced the waste into their drum washing process. The hazardous waste in the drums combined with the methylene chloride and caustics, generating additional hazardous

wastes. The wastes included sludge that settled in soaking and water storage tanks and liquid hazardous waste.

Over the course of the investigation, agents learned that Bay Drum employees disposed of this waste in a variety of ways. Initially they were disposing of it in the City of Tampa sewer system. They also drummed up hazardous sludge and paid a City of Tampa sanitation worker to take it to the city incinerator for disposal. After Benkovitz and Bay Drum were caught and pled guilty, Gary Benkovitz agreed to cooperate with the government and assist in other investigations. Instead of providing assistance, however, Benkovitz and Bay Drum modified their process to illegally dispose of the hazardous waste into a storm water drain that lead to McKay Bay, a water of the United States. When they feared the new disposal method had been detected, they began discharging the waste onto the ground of an adjacent property. When investigators caught them illegally discharging the waste in that manner, Benkovitz and Bay Drum pled guilty to additional environmental criminal charges. As a result of both guilty pleas, Benkovitz was sentenced to 13 years in prison. Information the investigators discovered just prior to sentencing revealed that Bay Drum had continued to violate environmental laws right up to the time of sentencing. [Contacts: Special Agent Dan Green (technical) and Jodi Hirschfield (legal)]

Larry Hilton (Florida) - Larry Hilton buried 37 drums of waste, some of it hazardous, on rural property he was renting from an elderly woman outside of Bradenton, Florida. The drums contained fiberglass resin waste that had been stored in a warehouse for several years until Arthur Burrows, the property manager for the warehouse owner, hired Hilton to remove the drums. The drums were not discovered until about a year later when Hilton was evicted from the property for failure to pay his rent. Investigators tracked the drums back to the warehouse through one of Hilton's accomplices. Hilton fled prosecution and was a fugitive for approximately two years. He eventually turned himself in as investigators were closing in on him. He pled guilty to burying the hazardous waste and failing to report a release as required under CERCLA. Hilton was sentenced to 57 months in prison, which equaled the longest sentence ever handed out in an environmental case in the Middle District of Florida at that time. Burrows was also charged and pled guilty to causing the illegal transportation of hazardous waste. Burrows, who was 80 years old, received two years' probation, 100 hours community service, and a $10,000 fine. [Contacts: Special Agent Dan Green (technical) and Jodi Hirschfield (legal)]

U.S. v. Royal Caribbean Cruises Ltd. (Florida) - Royal Caribbean Cruises Ltd., one of the world's largest passenger cruise lines, plead guilty on August 5, 1999 in Miami, Florida, to 21 violations of federal law related to a fleet-wide practice of dumping wastewater contaminated with hazardous materials into U.S. waters, including the Port of Miami, illegal storage of hazardous materials

at the Port of Miami and lying to the U.S. Coast Guard in records related to the discharge of oil-contaminated bilge waste. In the plea agreement, Royal Caribbean agreed to pay a total of $18 million in fines for dumping waste oil and hazardous chemicals into the ocean in violation of the Clean Water Act and Oil Pollution Act and for making false statements to the Coast Guard. The pleas were filed in U.S. District Courts in Miami, where Royal Caribbean has its headquarters, and in New York City, Los Angeles, Anchorage, St. Thomas, and San Juan. These 21 new charges follow a guilty plea by Royal Caribbean in June 1998 for similar crimes in Miami and San Juan. Those charges resulted in a $9 million fine. In addition, to the total fines of $27 million in the two cases, the plea agreement calls for Royal Caribbean to operate for five years under an environmental compliance plan. Upon approval of the agreement by the courts, $6 million of the current fine will be allocated to performing community service for the Fish and Wildlife Foundation and the National Park Service Foundation for environmental projects in each district where the pleas are filed. The case was investigated by EPA's Criminal Investigation Division, the U.S. Coast Guard, the FBI, and the Department of Transportation-Office of Inspector General with special assistance from the Military Sealift Command, the National Oceanographic and Atmospheric Administration, and the Department of State. [Contacts: Special Agent Alina Vazquez (technical) and Jodi Hirschfield (legal)]

State Relations

Joint Planning and Priority Setting - The current state/EPA planning process for enforcement and compliance assurance in Region 4 is being supplemented by processes that ensure a more holistic look at the problems, expectations and resource deployment in the program for both Region 4 and our state partners. In FY98, EPA Region 4 initiated a planning process with our eight states in which senior managers from EPA and the states met to discuss joint planning, priority setting and targeting. The objective of the meetings has been to enhance and foster partnership of the annual planning process, improve compliance and enforcement, ensure accountability measures based on sound data, discuss burden reduction of reporting requirements and promote capacity building through targeted use of resources. Region 4 has met with seven of our eight states. A meeting with the last state, North Carolina, has been delayed due to a hurricane's impact on the State. In a framework of greater accountability, it has become increasingly more important to maximize the talents and resources of EPA and the states in order to achieve highest degree of environmental protection. The joint planning meetings are one means of communicating a process resulting in accountable programs, reducing resource overlaps/duplication and building on the strengths of our respective agencies.

Major factors that are considered in this process are the OECA MOA Guidance document and state specific priorities as identified by the state profile and EPA/state joint planning. The Environmental Accountability Division (EAD) is developing state profiles of noncompliance rates by sector,

geographic area, programmatic area, etc, which will help define the baseline noncompliance problems for each state. Media programs will then negotiate with their state counterparts concerning agreements on the deployment of state and EPA resources to address the highest priority enforcement problems in the states as well as the national priority problems identified in the OECA MOA guidance. Additional agreements would be reached with the states concerning approaches (e.g., direct enforcement, compliance assistance, compliance incentives, etc.) to be employed to address priority problems, expectations, and core performance measures.

State Enforcement and Compliance Oversight and Evaluation - For many years, EPA Region 4 has conducted reviews of the enforcement programs in each of the southeastern states. Traditionally, however, EPA has reviewed each of the state media enforcement programs separately and issued reports evaluating each program individually. The traditional state evaluation process is evolving from a program by program review toward a more comprehensive state of the state evaluation. A multi-divisional work group developed a protocol intended to make program evaluation oversight more comprehensive in terms of determining the overall effectiveness of state environmental enforcement and compliance. Emphasis is being placed on identifying and evaluating state performance, related to overarching multimedia issues and trends, as well as implementation of targeting strategies, response to citizen complaints, status of data bases, external relationships with state partners, etc. The purpose of the multimedia review is to develop an overall, qualitative picture of a state's enforcement programs. In FY99, the Region conducted the first comprehensive oversight evaluation in the State of North Carolina and intends to conduct one, possibly two, more in FY2000.

Performance Partnership Agreements (PPAs) & Grants (PPGs) - The following is a summary indicating the status of each of Region 4's States in relation to PPAs and PPGs:

- **Florida** - (PPA) The Florida PPA expired at the end of FY99. Due to a change in the State's senior management, there was considerable delay in implementing some of the commitments of the PPA. The Region has met with the State and there is agreement as to the content of the FY2000 PPA, which is currently being finalized. The PPA will continue to focus on coordinating the Regional and State enforcement strategies across all media programs. The State has expressed considerable interest in entering into a PPG agreement and, along with the Region, is working toward that end.

- **Georgia** - (PPA and PPG) The Region and the State of Georgia signed their third PPA in December 1998. The PPA remains in effect through FY2000, and contains an enforcement component. Georgia continues to operate with a PPG in place. Included in its PPA and PPG are the following programs: Air 105, Water 106, Groundwater, RCRA, UST, PWSS,

Information Management, and multimedia. The State has agreed to incorporate the ECOS Accountability measures into the PPA. In September 1999, Georgia asked for and received concurrence from the Region for some minor mid-course changes in the PPA.

- **Mississippi -** (PPA and PPG) The State has made considerable progress in the reinvention of permitting to make it more user-friendly. The State PPA contains a specific enforcement component. Mississippi and the Region will define the initial activities, including compliance and enforcement, by the second quarter of FY2000. The current PPG covers Air 105, Water 106, and RCRA, and its purpose is to save administrative time.

- **North Carolina -** (PPA) North Carolina's FY99/2000 PPA was signed in December 1998. The PPA is aiming to implement separate projects that will improve environmental results and communication between EPA and the State. The PPA does contain an enforcement component.

- **South Carolina -** (PPG) The State has a PPG and the region will continue to work toward the development of a PPA. The PPG does not contain an enforcement component. South Carolina has included in its PPG the following programs: Air 105, Water 106, Groundwater, RCRA, UIC, and PWSS.

- **Alabama** - The Region has met with the State in FY99 to start laying the ground work for the development of a PPA and to promote joint planning. The Region has not signed any agreements, either PPA or PPG, with the State of Alabama. The Region does not anticipate any FY2000 agreements.

- **Kentucky** - The State has shown no interest in either a PPA or PPG.

- **Tennessee -** State and EPA Senior Managers met in February 1999, to discuss a PPA for Tennessee. The State may sign a PPG for FY 2000.

FY98/99 MOA Accomplishments

The following is a description of the accomplishments made for the commitments made in the Region's FY98/99 MOA with OECA and the FY99 MOA addendum.

Cross-cutting Areas

Department of the Interior Compliance Assistance

Region 4 representatives participated on several site visits at U.S. Fish and Wildlife Service (FWS) facilities. The purpose of the site visits was to identify common compliance issues and concerns within the Department of the Interior (DOI) community. The site visits were conducted at Okefenokee Swamp National Wildlife Refuge in Folkton, GA; Coastal Georgia Field Office and Laboratory in Brunswick, GA; Dale Hollow National Fish Hatchery in Celina, TN; and Orangeburg National Fish Hatchery in Orangeburg, SC. FWS management identified the facilities listed above as typical southeast regional facility operations. The information collected during the aforementioned site visits will be compiled in individual site reports. The collected information will be used to:

- Provide compliance assistance to the specific facility,
- Define needs for compliance assistance materials for similar facilities, and,
- Increase EPA's understanding of environmental issues and compliance assistance needs associated with DOI facilities nationwide.

In addition to visiting FWS facilities, Region 4 representatives participated on conference calls with fellow DOI/EPA Compliance Assistance Work Group Members to improve communication between agencies.

Imminent & Substantial Endangerment

The Compliance Assurance Steering Committee has incorporated case screening process that will include screening potential Imminent and Substantial Endangerment cases to coordinate a regional response. As these cases are issued/filed, they will be entered and tracked in DOCKET. The RCRA program has significantly increased the use of this authority in emergency situations, having issued five RCRA Section 7003 Orders in the past two years (please see the case summaries for a description of two of these orders).

Community Based Environmental Protection - Compliance Assurance Strategy

A workgroup of enforcement staff from the various media programs was organized to develop a Compliance Assurance Strategy that could be used to screen Community Based Environmental

Protection (CBEP) projects for compliance assurance activities. In Region 4, most of the CBEP Coordinators are not in an enforcement program, and are unaware of the enforcement and compliance tools available to improve the environmental conditions in a CBEP area. Three things were developed by the workgroup:

- A fact sheet for CBEP Coordinators describing the different compliance assurance tools that are available and situations in which they could be used (e.g., compliance assistance to small businesses, using SEPs to remove lead paint from buildings);
- A standard form letter that the CBEP Coordinators can use to request data from the different Division in the Region to create a inventory of information that could be used to screen for compliance assurance activities;
- A flow chart showing the process for screening a CBEP site and how to coordinate with the enforcement and compliance programs should opportunities arise for their assistance.

This information was provided to the Region's workgroup of CBEP Coordinators for their use in screening their project areas.

Community Based Environmental Protection - Charleston/N. Charleston

The Charleston/N. Charleston CBEP is focused on the neck area of the Charleston, South Carolina peninsula. The area has both active industry as well as contamination resulting from historical hazardous waste releases or practices that were not environmentally protective. The area is characterized by the close proximity of the industrial corridor to both human residential populations as well as abundant tidal creeks, marches, and rivers in the area. The environmental concerns in the area cut across all media (air, surface water, ground water, sediments, and soil). A number of enforcement activites have been undertaken in the area (see Top Accomplishments section of this report). In addition, other activities occurring in FY98/99 include:

Former Phosphate/Fertilizer Plants - Part of the CBEP environmental evaluation includes a plan to characterize the environmental impacts associated with the former phosphate/fertilizer industry of Charleston, South Carolina. An analysis of historical aerial photographs conducted by EPA identified the presence of nine former facilities in the Charleston "Neck" area between 1945 and 1994. This initiative will continue in FY2000/2001. Where unacceptable risks are identified, Region 4 and the State of South Carolina will implement an adequately protective site management strategy.

Brownfields - EPA's Brownfields Economic Redevelopment Initiative is designed to empower states, communities, and other stakeholders in economic redevelopment to work together in a

timely manner to prevent, assess, safely clean up, and sustainable reuse Brownfields. EPA selected the City of Charleston for a Brownfields Pilot. The city is targeting its Neck area, a 7.3-square mile federal Enterprise Community (EC). Businesses and commercial developers have been reluctant to invest in the area in fear of environmental contamination from old fertilizer plants and industrial activities dating back more than 100 years. The Brownfields Grant will go toward activities such as site identification, environmental site assessments, risk assessments, development of a cleanup and redevelopment plan, and coordination of outreach activities in the EC for the proposed industrial park. In September 1998, a Cooperative Agreement, describing the activities of the Brownfields pilot, was signed between the City of Charleston and EPA.

Pollution Prevention - A Pollution Prevention Grant was awarded to provide pollution prevention technical assistance to small businesses in five minority communities located primarily in the North Charleston, South Carolina, area. The project will (1) canvass small businesses in the delineated areas, (2) identify high-impact areas and technical assistance opportunities, (3) develop and distribute targeted mailings and initiate neighborhood meetings to inform residents of the program, and (4) provide in-plant P2 assessments.

Compliance Assistance -The Charleston/North Charleston CBEP was selected as a pilot project for the National Performance Measures to measure the effectiveness of the compliance assistance offered to industries within the project area. The compliance assurance component of the CBEP is a partnership between EPA Region 4 and the South Carolina DHEC. A Compliance Assistance Workgroup was established to jointly plan and implement a comprehensive multimedia approach for compliance activities from both SCDHEC's various Bureaus and EPA's multimedia programs.

The Auto Repair and Paint and Body Shop sectors represented the greatest potential for environmental problems in the community. Currently, the Compliance Assurance Workgroup is providing Compliance Assistance to the two sectors and measuring the effects of that assistance. The measurement is examining three indicators: (1) Behavioral Change, (2) Compliance Indicators, and (3) Environmental and Human Health Improvements. Initial compliance assistance activities are ongoing, and are expected to continue into FY2000. Compliance assistance measurement will then be completed, and additional activities will be planned in support of the CBEP activities.

Radon Initiative - A Radon Initiative for the Charleston CBEP has been initiated, and will include community education and outreach, a radon testing survey and, if necessary, radon mitigation. The Southern Regional Radon Training Center will provide training on mitigation techniques for local trainees.

Community Based Environmental Protection - West Louisville

There have been several outcomes as a result of Region 4's involvement during FY99 in the West Louisville, Kentucky, Rubbertown community. While it is premature to measure environmental results, programmatic results in FY99 include:

- The CBEP partner organizations formed a Steering Committee in November 1998. The overall goal is to develop a CBEP work plan. This plan will include measurable objectives, activities, indicators and milestones, as well as identify lead agency responsibilities.
- A grant of $8,700 was obligated to the Jefferson County Air Pollution Control District to provide training for community members on air toxics, geographic information systems for environmental data, and other project issues, and to provide appropriate outreach during the course of the air toxics study.
- The West Louisville CBEP team received $200,000 in funding for the air toxics monitoring study planned for West Louisville in FY2000/2001.
- Region 4's Air, Pesticides & Toxics Management Division and Science & Ecosystem Support Division provided training to the West County Community Task Force regarding air monitoring and modeling. The purpose of this training was to familiarize the Task Force with the procedures for the selection of sites for air monitoring instrumentation. The training was also the first step in helping the community understand the data that will be generated by the air toxics study.
- The Science & Ecosystem Support Division assisted with selecting the air toxics monitoring sites. Data collection will begin in early 2000.
- The Jefferson County School system received a $25,000 Environmental Education grantfrom EPA to teach elementary and middle school children about air toxics and particulates.
- The Steering Committee is working to compile a summary of all environmental and health related activities. Once this data is collected, it will be included on a CBEP web page to be created by the Kentucky Pollution Prevention Center.

Federal Facilities

In the FY 1999 MOA, Region 4 committed to several activities. These activities included (1) performing Environmental Management Reviews at all facilities that volunteered, up to a maximum of four; (2) ensuring CAA, UST, RCRA and SDWA inspections were conducted during all multimedia inspections; and (3) accompanying media inspectors on two single-media inspections to evaluate potential opportunities for pollution prevention technology transfer. Finally, the SDWA program committed to performing an inspection at Fort Bragg as a replacement for the planned follow up inspection at Redstone Arsenal.

No federal facilities volunteered during FY99 for EMRs, so Region 4 did not perform any. However, Region 4 did accomplish the four multimedia inspections committed to for the Fiscal Year. CAA, UST, RCRA, and SDWA programs were a component of four inspections, which were conducted at Naval Air Station Jacksonville, U.S. Army Fort Benning, Warner Robbins Air Force Base, and Anniston Army Depot. Due to a lack of travel funds, opportunities for identifying pollution prevention technology transfers were not conducted.

Tribal

The Region 4 Indian Program Office (IPO) has sponsored, during FY98 and FY99, conferences for the Tribes to meet with the Region on several occasions, including an annual cross-program meeting set each February. One of the most successful meetings has been an onsite conference providing grants training outreach to the Eastern Band of Cherokee Indians on June 8-9, 1999. Region 4 traveled to the Reservation to meet in person over those two days to introduce the basics of grants and to offer extended question and answer sessions. Other Tribes in the Region have requested that we follow up this conference with conferences for them on the same topic. Plans to conduct these grant management conferences are being developed for FY2000. The Indian Program Office also co-sponsored media specific programs, which are gaining the capability and rapport with the Tribes and will be able to run their own conferences.

The Indian Program Office has also worked with the media programs over the last two years here in Region 4 to connect tribal environmental staff with training courses that the Region has offered. Training has been offered in environmental monitoring as well as various analytical laboratory areas. Other areas such as wellhead protection and various solid waste areas have sponsored applied training events where learning is combined with field trips to appropriate tribal and non-tribal facilities. The Region's Tribal Air Team has surveyed all of the reservations in the Region and identified all of the

sources and potential sources, and reported out its findings in a report issued in December 1998.

In the area of compliance monitoring, substantial progress has been made in identifying, evaluating, and tracking facilities in Indian Country. During the last two fiscal years, a tracking system of public water supply systems has been established, as well as underground storage tanks, and are aggressively reissuing permits to NPDES facilities. The regulatory programs at Region 4 are now aware of all regulated facilities within the boundaries of Indian Country, with the exception of the RCRA program, which continues its identification efforts into the coming FY2000 fiscal year. It is the Region 4 policy that all enforcement actions in Indian Country go through the IPO to ensure consistence with national policy. The IPO has placed the AILESP site link on its web page (September 1999) to allow tribal users to directly link to the information. The IPO continues its efforts with the programs to gather spatial data on regulated facilities in Indian Country.

Multimedia

Many facilities are subject to more than one environmental statute. By taking a multimedia approach to evaluating a facility's compliance status and addressing any violations detected, the facility is more likely to recognize the overall environmental impacts of its activities. Region 4 considers "multimedia" to be an action to address an environmental problem which involves more than one media program. Not all multimedia actions are enforcement actions. For example, Region 4 uses multimedia approaches in CBEP efforts to assist communities concerned with environmental issues. A multimedia enforcement action is any enforcement action which addresses violations in more than one media program.

During the FY98/99 MOA cycle, Region 4 developed a "Multimedia Enforcement Process" based on the Region's reorganization. The process establishes a Multimedia Workgroup, which consists of designated enforcement staff from each program. A committee of enforcement Branch Chiefs decide which potential multimedia enforcement actions to pursue and makes appropriate resource commitments. The Multimedia Workgroup coordinates and tracks the cases during case development and raises issues for resolution as appropriate. The Workgroup also tracks the multimedia cases in the Regional Enforcement Database System (REDS).

Also during the FY98/99 MOA, Region 4 implemented a "Regional Multimedia Inspection Procedure." Region 4 uses a team approach in conducting multimedia inspections. Team members are selected from the media programs to participate in the multimedia inspection. The Regional Multimedia Inspection Procedure outlines the roles and responsibilities of the lead inspector and inspection team before, during, and after a multimedia inspection.

During FY98/99, Region 4 conducted 20 multimedia inspections each year. Region 4 also continued to participate in the National Enforcement Screening Strategy (NESS) to target large companies that may have significant noncompliance problems nationally. The ability to make good decisions, identify targets and analyze data, based on sound science helped guide Region 4's priority-setting and maximize the use of limited multimedia resources. During FY99, Region 4 referred one of the largest multimedia cases in the history of the program to the DOJ. The Region and DOJ are currently in negotiations with the company to resolve significant noncompliance violations with the CAA, CWA, and RCRA requirements. This multimedia investigation has also resulted in a national evaluation of this company. Additionally, during FY98, one of our multimedia investigations resulted in a precedent setting decision for EPA under the SDWA Section 1431 emergency authority. The court ruled that the responsible party must supply bottled water to the affected community and evaluate a permanent drinking water remedy.

Data Quality

During FY 1999, the Region created a new set of reports regarding significant noncompliance in Region 4. These reports were intended to fulfill many purposes: to provide a single reference about significant noncompliance in Region 4, to provide a means of state-by-state-by-federal comparison, and to highlight area of concern regarding data quality. The reports are produced at the end of each quarter covering data from the preceding quarter. The reports contain one chart for each state and one chart for the Region. The charts contain information, divided by program, about the number of regulated facilities, facilities in significant noncompliance, noncomplying facilities unaddressed beyond the timely and appropriate guidelines, etc. To the greatest extent possible, all of the information is obtained directly from the national databases.

These reports are sent to each of our State Directors and State Enforcement Contacts. By using the reports, the state is able to monitor their compliance with the appropriate, federal timely and appropriate guidance and observe their position within the Region. The reports answer the question of "How am I doing?" often posed by state partners. In addition, since the reports are derived mostly from the national databases, any disagreement regarding the information within the reports is an indication that the national databases do not contain all of the correct information. Correcting the disagreement thereby provides the opportunity to adjust the data in national databases in a timely manner

The Region also undertook an effort to improve the monitoring of federal compliance and enforcement data. This effort was the creation of a regional pipeline management system. The

Regional Enforcement Database System (REDS) is being implemented at the first of FY 2000 and will track each federal compliance and enforcement activity from inception to conclusion. Furthermore, REDS improves the Region's ability to coordinate multimedia inspection and cases by providing a single, central repository of such information. The Region anticipates that REDS will also benefit our data quality by focusing attention on the data management of our compliance and enforcement actions.

Environmental Justice

Communication Strategy - During FY98, the Region's Environmental Justice/ Community Liaison Program (EJ/CLP) implemented several new initiatives. The structure of EJ/CLP was divided into three main categories: internal, external, and outreach. Internal activities included providing briefings for EPA staff, providing informational sessions for EJ/CLP staff and EJ cross-divisional team members, and presenting an EJ lecture awareness series. Upon request, presentations have been made to other agencies such as the Federal Aviation Administration and the Fish and Wildlife Agency. The Region also chartered a cross-divisional team to facilitate the integration of EJ into Region 4's daily operations, assisting in the implementation of EJ activities in the Region to ensure consistency and continuity of efforts, and providing information for reporting purposes.

Responding to citizens' complaints is an integral part of the EJ program's responsibilities. In response to concerns raised by the Brunswick, Georgia community, the first community-based training was piloted and implemented. The community-based training was held September 26, 1998 and December 4 & 5, 1998.

Environmental Justice Database - In FY99, a complaint tracking database was implemented to maintain and track all environmental justice inquiries and informal complaints received by the Region. In FY2000, the EJ/CLP will implement an environmental justice complaint tracking procedure, which is being developed in collaboration with the divisional EJ Coordinators and is consistent with the Agency's customer service standard. The environmental justice complaint tracking procedure delineates roles and responsibilities and identifies time lines for each step of the complaint tracking procedure. In addition, the EJ/CLP is planning to develop a regional Environmental Justice Complaint Tracking System (EJCTS) in FY 2000. The objective of the regional EJCTS is to allow EJ coordinators, and all users with LAN access, to view complaints-in-process.

Environmental Justice Roundtable - In December 1997, the Environmental Justice Roundtable was held in Durham, North Carolina. The Office of Environmental Justice, Headquarters, has the lead on following up on the recommendations that came out of that meeting. Region 4 will be hosting the National Environmental Justice Advisory Council (NEJAC) in May 2000.

Environmental Leadership Program

The Region was fully anticipating and had prepared for the inauguration of the Environmental Leadership Program (ELP) in 1997, however the program was never launched. Interest from the states was relatively high, as seen by the 6-out-of-8 states attending the one-week ELP seminar set up by the Region and contracted for by OECA. Following the series of regional seminars, OECA surveyed the business establishment as well as the regulated community and found that interest in ELP was low, thus the program's launch date was postponed twice, and eventually the program was canceled altogether.

Sectors

Dry Cleaning

The activities in this sector represent a comprehensive evaluation of activities in the dry cleaning sector by the Region, state and local agencies in the Southeast over the past several years. The Region solicited an inventory of ongoing or planned activities for Dry Cleaners by the state and local agencies in October 1997, and again in July 1998. The state and local agencies took a systematic approach in identifying the population universe of dry cleaners. Tools used included: the list of dry cleaners provided by the EPA; telephone books; trade associations; dry cleaning suppliers; the Department of Revenue's privilege license application database, RCRA database, and the business license offices. Although the size of this industry is dynamic, the State and local agencies have identified a source population of 3,840 across Region 4.

Compliance assistance has been provided by every Region 4 state and local agency through a myriad of compliance assistance tools including inspections, telephone calls, outreach packets, video telecourses, trade associations' meetings, correspondence, workshops, newsletters as well as pro-active use of annual notifications and return "certifications of compliance" following an inspection. Active use of the small business ombudsman has greatly supported the compliance assistance effort. A few of the states have also developed a web page. Virtually all states have reached 100% of their identified universe of sources through some form of compliance assistance.

Region 4 provided the state and local agencies with copies of the *Plain English Guide for Percloroethylene (Perc) Dry Cleaners: a Step by Step Approach to Understanding Federal Environmental Regulations* to distribute by inspection, direct mail and upon request. Copies of the Korean version of the *Plain English Guide* were made available to the state and local agencies in the

Region. The state/local agencies in the Region have been very successful in establishing partnerships with local dry cleaning trade associations. Georgia, North Carolina, and Tennessee have participated in the local trade association conferences. Through the trade associations, the state/local agencies have been able to have a continuing outreach effort which is especially effective for assisting new establishments.

All the agencies in the Region have conducted inspections to determine the initial compliance. The states/locals have reported that 2,380 inspections have been conducted since FY96. Region 4 has conducted approximately 200 inspections throughout the Region in the last four years. Most dry cleaners were initially in compliance with the equipment requirement of the dry cleaning standard; however, most were out of compliance with the record keeping and monitoring requirements. The Region observed the same trend in violations during the inspections conducted by the Region. The following table summarizes the compliance and enforcement activity in the Region.

TABLE - COMPLIANCE SUMMARY *

AGENCY	DRY CLEANERS	INSPECTIONS	IN COMPLIANCE	ENFORCEMENT
Alabama	255	not reported	249 out of 255 (97%)	5 NOVs; 5 penalty orders
Florida	977	843 FY97 730 FY98	50% up to 98% throughout the state	8 consent orders
Georgia	650	250 FY96 100 FY97	76 out of 100 conducted in FY97 76%	77 NOVs; 4 actions with penalties ($850 - $1500)
Kentucky	299	not reported	not available	NOVs & Warning Letters
Mississippi	116	10% annually	115 out of 116 (99%)	Warning letters; 1 penalty order $250.
North Carolina	709	188 FY97	138 out of 188 (73%)	5 NOVs
South Carolina	257	21 FY98	not available	none to date
Tennessee	426	226	not available	2 NOVs

* Local Program statistics are included in State totals.

The Region established a partnership with the State of Georgia to conduct a compliance assistance initiative. The initiative consisted of compliance assistance inspections and a series of

workshops throughout the state. The initiative was publicized through a press release and a joint letter from Region 4 and Georgia which was distributed to all the identified perc dry cleaners. Voluntary compliance assistance audits were offered by the Small Business Assistance Program and both agencies participated in the annual conference of the Southeastern Fabricare Association. Region 4 and Georgia conducted 249 inspections of facilities that were possibly subject to the dry cleaning regulation. Of the 249 inspections, 165 were perc dry cleaners, 65 were pick-up stores and 19 used alternate cleaning processes. Of the perc facilities inspected, 16% were in full compliance, 12% had one violation, and 72% had multiple violations. The State distributed Self Certification to facilities in violation and requested that they return the form upon reaching compliance. Forms were received from 56% of the 138 dry cleaners with violations indicating that they have corrected deficiencies observed during the compliance assistance inspections. The State conducted follow-up inspections on the dry cleaners that did not submit the self certifications to ensure compliance. All were eventually returned to compliance.

Florida has a very large number of dry cleaners in the State and has instituted use of annual certificates of compliance and annually mails a calendar with built in forms for record keeping by the dry cleaners. They have also issued general permits to their entire dry cleaning source population. This non-traditional approach has been very successful in maintaining high compliance rates within this sector.

The Region plans to require the states to determine an annual compliance rate based on the number of inspections made each year. The Region intends to monitor these rates, as well as continue to provide compliance assistance as resources allow. Virtually all of the Region 4 states and local program are targeting dry cleaners for inspection, conducting inspections and re-inspections, investigating complaints, working with their small business program in providing compliance assistance, and taking enforcement with penalties.

Primary Non-ferrous Metals

In 1997, OECA estimated that current noncompliance rates ranged from 70% to 100% nationwide for the primary non-ferrous metals sector. OECA requested that Regions participate in activities that would reduce the noncompliance rate to less than 33% by the end of FY98/99. As a result, Region 4 committed to a dual approach to improve any elevated sector noncompliance rates. The first phase was a determination of the actual Regional rate of compliance within the sector with the second phase incorporating a pollution prevention component based on the findings of the compliance review. These two phases are described below:

(1) Phase 1- Compliance Review: One of the first tasks was to establish a baseline to determine the existing rate of compliance within the sector for Region 4. Under the Sector Facility Indexing Project, it was determined that there was a total of six potential primary non-ferrous metal facilities within Region 4. For confirmation, EPA reviewed this list and concurred with the findings. In order to determine the Region 4 sector compliance rate, each regulatory program (CAA, RCRA, EPCRA and CWA) was tasked with a review of their applicable data bases and state information on the six facilities over the past 2-3 years. If it was determined that a facility had not been inspected during FY95/96/97, the media program would conduct an inspection / permit review during FY98. The media programs completed this task as scheduled with the following results:

- *CAA Enforcement:* No violations detected during FY98 review. In FY99, one facility received an informal Notice of Violation. This facility addressed the noncompliance problems appropriately and in a timely manner.
- *EPCRA Enforcement:* One facility was under evaluation for potential reporting violations as a result of the sector review in FY98. In FY99, Region 4 completed its evaluation and determined that the facility, due to a correction in the facility's SIC code identification, was not required to continue reporting. Therefore, it should not be included as a Region 4 primary non-ferrous metals facility and was removed from the list. No other violations detected;
- *RCRA Enforcement:* Three facilities were issued warning letters as informal enforcement actions during the review period, but there were no Significant Noncompliers (SNCs) identified or formal enforcement actions required. No Bevill Exclusion violations were found in FY98 at any of the six facilities;
- *CWA Enforcement:* During the review period, two facilities were issued informal Notices of Violations or informal Warning Letters. One of these facilities was issued an Administrative Order in FY97 with finalization of the Order and reissuance of the permit in mid-FY98. The other facilities had no violations detected.

Under the FY98/99 MOA, all six facilities have been reviewed with all outstanding enforcement actions completed. To our knowledge, these facilities are currently in compliance. This then indicates that the overall sector noncompliance rate within Region 4 is less than 33%; thus, meeting the goal set by OECA.

(2) Phase 2 - Pollution Prevention: Region 4 had initially planned to sponsor a Regional Pollution Prevention Conference targeted to this sector under the FY98/99 MOA. However, due to budget constraints, the conference was not funded. Instead, each facility was contacted individually and was provided a package of information on compliance assistance available from Region 4.

Specifically, they were provided with details on the Pollution Prevention (P2) Program; the EPA's Y2K Policy; the Chemical Safety Audit Program under EPCRA; and, the Self Disclosure Policy. Each of these topics gave a full description of the individual program and the names of Regional/State contacts as appropriate. To date, several facilities have contacted the P2 representatives to discuss potential P2 training and activities. We expect that the facilities have reviewed the other compliance assistance options and may take advantage of these opportunities at a later date.

Summary: Region 4 has completed its work as committed under the FY98/99 OECA MOA for the primary non-ferrous metals sector. All identified facilities were reviewed with the appropriate enforcement actions taken. To our knowledge, these facilities are currently in compliance; thus, resulting in an overall sector noncompliance rate of less than 33%. In addition, we completed our compliance assistance activities resulting in several facilities pursuing potential P2 projects. Region 4 will now end our structured primary non-ferrous metal sector activities under the FY98/99 OECA MOA and commit these resources to other areas in FY2000.

Iron & Steel

For the FY99 OECA MOA, the Region committed to implement a self-disclosure initiative at selected mini-mills. Specifically, the Region committed to conducting a preliminary Clean Air Act baseline assessment of the fourteen operating mini-mills and conduct inspections and initiate appropriate enforcement actions for all violations discovered during the 4th quarter of FY99. Results of the baseline assessment revealed that two facilities were in significant noncompliance and that one facility is operating without an air permit.

Several unforseen issues prohibited the Region from fully implementing the FY99 commitments. Most important, the final Iron & Steel Sector Strategy (the Strategy) was not issued until September 27, 1999, which caused critical timing issues in initiating inspection activities in accordance with the Strategy during the 4th quarter of FY 99. Secondly, resource constraints and specific inspector training needs prohibited the Region from conducting inspections in accordance with the Strategy.

Petroleum Refining

Region 4 has 12 operating petroleum refineries and one refinery that is currently shutdown. During FY98, the RCRA program conducted investigations of all 13 petroleum refineries to determine whether refineries have been adequately evaluated as potential sources of groundwater contamination. The RCRA investigations revealed groundwater contamination present at eight petroleum refineries

which had either been previously addressed or were being addressed by the State agencies. One refinery did not appear to be a source of groundwater contamination, and the remaining four facilities were inspected in FY99. No major compliance problems were discovered.

During FY98, the CAA program conducted compliance evaluations at ten petroleum refineries. The remaining three refineries not evaluated include one refinery which previously received a comprehensive multimedia investigation, another which was shutdown, and the third which was subject of an ongoing enforcement action. The compliance evaluations, three of which were conducted by contractors, included PSD/NSR analyses, LDAR program evaluations, benzene waste NESHAP applicability determinations and the identification of slotted guide poles utilization. All violations discovered during the investigations are currently being addressed

Coal Fired Power Plants

Over the past two fiscal years, Region 4 has been participating in the multi-regional Electric Utility Initiative with Regions 3 and 5 for the purpose of investigating NSR/PSD violations. Region 4 has investigated 19 coal-fired power plants within three parent companies, Southern Company, Tampa Electric Company and Tennessee Valley Authority (TVA). Violations of NSR/PSD were identified at all 19 plants. Region 4 will be supporting the Department of Justice on the plants that were filed on November 3, 1999 in District Court, and on the plants that will be amended to the complaint. The CAA program will also be implementing the administrative process on TVA. In addition, investigations have commenced on Duke Power Company and Carolina Power and Light on 22 plants within the collective systems.

Concentrated Animal Feeding Operations

During FY99, the Region conducted 27 compliance evaluation inspections at Concentrated Animal Feeding Operations (CAFOs) in Georgia, North Carolina, and Florida. Facilities were a mixture of dairy and swine CAFOs. The inspections in North Carolina were targeted in a priority watershed (Lower Cape Fear). In FY98, 34 inspections were completed in Kentucky, North Carolina, and South Carolina. One administrative enforcement action was initiated at a swine facility that had been inspected by the Region.

As a part of ensuring the States progress in addressing CAFOs, the Region reviewed enforcement files in the states of Alabama, North Carolina, and Mississippi. A number of violations were identified, but all recent violations were adequately addressed by the states. The States are urged

to submit a compliance/enforcement strategy. To date, five out of eight states have submitted a strategy. In addition, the Region is developing a strategy for targeting private wells that may be impacted by CAFOs. As a result of a private well sampling conducted by the North Carolina Department of Environment and Natural Resources (DENR), many private wells located near CAFOs have been identified which have elevated concentrations of nitrate. In August 1999, the Region visited a number of these areas in Johnston, Sampson, Duplin, Bladen, and Robesen Counties and confirmed contamination at seven sites identified by the North Carolina DENR using a field screening kit to detect nitrates in groundwater. Depending on available resources, the Region hopes to further investigate these sites for the purpose of determining the source(s) of nitrate contamination so that appropriate enforcement actions can be taken to address the contaminated wells. In addition, the Region has developed an enforcement targeting strategy using GIS for identifying areas where private wells are potentially impacted by CAFOs. This includes data layers on the location of private wells, soil types, CAFOs, public water supply lines, and digital orthophoto quadrangles. The GIS targeting strategy has been field verified. As resources are available, the targeting strategy will be used to pinpoint areas where further investigations can be carried out to locate contaminated wells.

Industrial Organic Chemicals/Chemical Preparation Sector

For the FY98/99 MOA cycle, Region 4 did not commit to this sector, as focus was on other national and regional priorities. However, there were activities undertaken to support the efforts of the Compliance Incentive Program (CIP) during this time frame. A total of eight facilities self-disclosed violations as a result of this effort. Region 4 is coordinating two of the multi-regional CIP disclosures and will continue to coordinate these disclosures during FY2000/2001. For the remaining six CIP disclosures not resolved during FY99, Region 4 will work to finalize these during FY2000. In addition, by the end of FY99, the Region 4 RCRA program will have inspected twenty facilities that received "generic" compliance incentive program letters. RCRA requested contractor support to conduct "drive-bys" targeted toward the "unknown" universe. Although supportive, Headquarters, to date, has been unable to provide such support.

During May 1998, the Region provided CAA HON training in three locations in Region 4. Although these training sessions were not conducted specifically for this initiative, there were facilities in the Industrial Organic Chemicals/Chemical Preparation Sector that did receive HON training. There are no CAA HON training activities targeted for this sector in FY2000/2001.

Media Priorities

CAA - Title V Permit Review

The CAA enforcement program has established a peer review team in FY98 to peer review draft/proposed Title V permits. The team consists of four permanent members and a rotating member. The rotating member is the state coordinator for the state in which the permit is being reviewed. In FY98/99, the peer review team reviewed over 110 draft/proposed Title V permits from all eight states in the Region. The program is also receiving and reviewing annual Title V compliance certifications.

In FY99 Region 4 convened a workgroup to develop guidance on annual compliance certifications to ensure Regional consistency in the annual compliance certifications. The workgroup was comprised of representatives from the States of Florida, Georgia, Kentucky, South Carolina and one local program, Forsyth County, North Carolina. The work product was reviewed by Headquarters and internally in Region 4. The guidance will be presented in November at the Fall Enforcement Workshop in Jacksonville, Florida.

CAA - Air Toxics/HON

Inspection of HON sources started in FY98 and continued in FY99, the CAA enforcement program has been taking enforcement actions with penalties. The program has gained experience with applying this complex rule, and has therefore, selected the HON rule as the Region's "adopt-a-MACT." Discussions have commenced with Headquarters regarding the Region's future activity in adopting this MACT.

CAA - Chrome Electroplaters

In FY98/99 the Region committed to conduct inspections at 10% of the chrome Electroplaters sources within this two-year period. This commitment was also carried forward as a part of the Common Sense Initiative-Metals Finishing Sector Strategic Goals Program. As a part of the Strategic Goals Program, the CAA enforcement program elected to proceed with an enforcement strategy under Tier 4 (the group of facilities that are out of compliance while they continue to operate). The state and local programs helped to identify a universe of 450 sources in the Region. The air enforcement program inspected 15 sources, and discovered that the majority of the sources had record keeping violations. For FY2000, the program plans to continue inspecting in this sector and follow-up with enforcement as appropriate.

CAA - Pulp & Paper

In FY99, the CAA enforcement program conducted single media and multimedia inspections at several pulp and paper facilities in the Region, as well as investigations of certain facilities' pulping processes. In addition, facility file reviews were conducted, an information request pursuant to §114 of the CAA was issued, with additional information requests under development. Information already submitted is currently under review.

In August 1999, the Region and OECA jointly funded training for both EPA and State/Local inspectors and permit writers. The training focused on the pulping and papermaking processes, with expert input from the Technical Association for the Pulp and Paper Industry, and Region 3. The training was conducted for the purpose of aiding both the Region and State/Local agencies in identifying areas of PSD and NSR violations.

CAA - Federal Facilities

The Region issued the first two Administrative Complaints and Consent Orders/Consent Agreements to Federal Facilities under the Clean Air Act in FY99, and were successful in obtaining appropriate penalties and supplemental environmental projects. The details of the cases are included under the CAA enforcement case summaries.

CAA - State Relations

The CAA enforcement program commenced an evaluation of the state and local agencies' CAA enforcement programs through comprehensive Compliance Assurance Program Evaluations. This was a new initiative for Region 4 in FY98/99, with these evaluations being substantially more comprehensive that the conventional grant program reviews conducted in the past. The purpose of these evaluations was to assess the credibility of the enforcement programs. During FY98 four states and five local programs were evaluated; and two states were evaluated in FY99. The findings have resulted in improvements of the CAA enforcement programs, and have provided Region 4 with a complete and accurate understanding of the respective programs which has enhance our working relationship with the agencies.

EPCRA - §301-312 National Initiative

Region 4 participated in the Food and Kindred Products Sector National Initiative in FY98/99. Sixty-five facilities voluntarily participated in this initiative; 63% completed a supplemental

environmental project in addition to any penalties received. This initiative proved to be highly successful and prompted other violative facilities to self-disclose EPCRA violations.

EPCRA - §313 Industry Expansion

Region 4 conducted nine Toxic Release Inventory (TRI) Workshops during FY98/99. The workshops were intended to assist facilities in preparing their annual reports on releases and other waste management activities as required under Section 313 of the Emergency Planning and Community Right-to-Know Act. These TRI workshops mainly targeted the seven new industries/sectors required to report under TRI for the first time: Metal Mining, Coal Mining, Electric Services, Refuse Systems/Hazardous Waste Treatment, Chemical and Allied Products, Petroleum Bulk Stations and Terminals, and Business Services/Solvent Recovery.

EPCRA - Mobile Homes Manufacturers

Region 4's EPCRA program targeted mobile home manufacturers for inspection and enforcement commencing in FY99. Virtually all sources inspected had violations. One particularly significant enforcement action was taken against a company by Region 4 which included sources owned by the company in two other Regions. Settlement negotiations are ongoing.

FIFRA - Urban Pesticides

During FY 98/99, the Region 4 Pesticides program has pursued the following activities in accordance with our MOA commitments for the Media Program Priority "Urban Pesticides."

Funding: The Region was instrumental in the development of guidance and the solicitation, ranking and selection for 33 national urban initiative projects for $1 million environmental program management monies provided by the Office of Pesticide Programs. In addition, guidance strategies for Region 4 state pesticide programs have been developed to solicit projects for $374,000 state tribal assistance grants (STAG) to improve existing compliance assistance, enforcement and outreach and education for the national urban initiative program. Other non-traditional sources have also been used to support the efforts of Urban Initiative, including the Region 4 Community-Based Environmental Protection (CBEP), Regional discretionary monies, and certification and training funds.

Outreach - Due to the importance of outreach and education to the Urban Initiative, Region 4 has prioritized the development of outreach materials. Numerous outreach and education initiatives

identified in a communication strategy are being worked on to focus the Region 4 campaign. Initiatives such as posters, brochures, children's programming, public service announcements, training for social service providers and health officials are just a few of the campaigns underway in the regional office. In addition, the Region has assisted numerous state pesticide regulatory programs with the development and distribution of educational products and has been instrumental in the review, comment and development of the National "After-Action Report for Methyl Parathion."

Interagency Coordination - Region 4 has taken a lead in this initiative through the co-authorship of the Urban Initiative strategy, providing slides and enforcement assistance to other state and regional pesticide programs. Staff has worked with CDC, ATSDR and numerous health-related entities to identify communities and to develop outreach and education materials for dissemination to the national audience.

Enforcement - The Region developed a second iteration of a national high visibility response manual. Information and ideas exchanged in the first and second Region 4 PREP courses has been used to develop the High Visibility Management section of the national FIFRA Inspectors Manual.

FIFRA - Adverse Effects

During FY98 and FY99, the Pesticides Program has conducted federal inspections and coordinated with states to conduct inspections regarding alleged adverse effects resulting from the use of pesticides. The Region has coordinated with EPA Headquarters when appropriate.

FIFRA - High Visibility Incident Management Course

From August 16-19, 1999, EPA Region 4 and the Georgia Department of Agriculture hosted the 1999 Pesticide Regulatory Education Program (PREP) course "High Visibility Incident Management" in Atlanta, Georgia. More than 40 pesticide officials from EPA headquarters, regional and state pesticide and environmental departments attended this high profile session. The facilitated discussions and hands-on activities focused on the various stages of high visibility incidents: discovery, investigation, coordination with other agencies, the press and public perception. The course proved very rewarding and the field exercise introduced the participants to the logistical and high profile issues of a first-rate pesticide incident. Many of the discussions and topics will be incorporated into the high visibility management section of the revised FIFRA Inspectors Manual.

FIFRA - Section 7

During FY99, Region 4 realized the results of several years of compliance assistance efforts pertaining to the timely submittal of the annual Pesticide Report for Pesticide-Producing Establishments. In addition to an increased enforcement effort, Region 4 initiated a reminder card mailing to all 2200 establishments. Reminder cards in Spanish were also mailed to south Florida companies. We have seen a significant drop in the total number of delinquent reports. In FY96, there were 281 delinquent reporters and only 73 in FY99. The percentage of delinquents dropped from 13% to 4%. Region 4 will again mail out cards in January reminding establishments of the March 1 reporting deadline.

FIFRA - Antimicrobials

During FY98-99, the Pesticides Program has conducted federal inspections and coordinated with states to conduct inspections regarding antimicrobials. The Region has followed up on referrals and taken enforcement actions against several violative antimicrobial products. During FY99, seven administrative complaints were filed for distribution and sale of products which made antimicrobial claims in violaiton of FIFRA.

RCRA - Organic Air Emissions

The RCRA Subpart CC Rule became effective in December 1996, affecting a significant number of facilities in the RCRA Universe. Furthermore, not all states are authorized for implementing the Subpart CC Rule. To assist in developing capability in enforcing these regulations, during FY98/99 the RCRA program provided six Subpart CC training sessions for State and regional inspectors.

Through using the Biennial Reporting System and hazardous waste codes for organic-bearing wastes, a potential universe was delineated that is subject to Subpart CC. During FY98/99, Subpart CC inspections were conducted at 53 facilities that presented high risk of organic emissions, like surface impoundments and fuel blenders. In addition to the compliance monitoring activities, Region 4's RCRA program developed a Subpart CC Compliance Assistance Guidance Document to assist EPA and State inspectors in conducting compliance assistance at Subpart CC facilities. Also, the RCRA program developed a Subpart CC Technical Resource Document. Both documents are available to the public through the Region 4 RCRA Enforcement and Compliance Branch Web Page. At the inspected facilities, only minor violations were discovered at some of the facilities and were addressed by informal enforcement actions. No significant noncompliers were discovered.

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RCRA - Generators

During FY98/99, increased compliance assurance emphasis was placed on RCRA generators. In previous years the Region focused more on Treatment, Storage and Disposal Facilities (TSDs). As a result of this and other efforts, the program began to see increased compliance rates at TSDs. During FY98, the RCRA program conducted 40% of the total inspections at Large Quantity Generator facilities that have not been inspected during the last three years. During FY99, the RCRA program conducted 28% of its inspections at LQGs. Compliance rates at RCRA LQGs tend to be significantly lower than at TSDs, which are inspected on a much higher frequency. The majority of SNCs were at LQGs, and are being addressed by either the states or EPA.

In addition to the compliance monitoring activities, in FY98 and FY99 the RCRA program provided grant money to the State of North Carolina to conduct two RCRA Small Quantity Generator Workshops and two RCRA Large Quantity Generator Workshops.

RCRA - Transporters

The RCRA program has not traditionally focused on the transportation of hazardous waste and transportation related areas. Based on conversations with States and Federal Officials, OECA's concerns about the potential risk presented by noncompliance within this sector increased. As suggested in the FY 98/FY99 OECA MOA Guidance, RCRA chose to invest resources on commercial hazardous waste transporters, the type of activity that poses the greater risk in the transportation category**.** RCRA inspections at transportation facilities were conducted during FY98. During FY99, the RCRA program conducted 20 inspections at commercial hazardous waste transporters with efforts concentrated on DOT facilities. Only minor violations were discovered and are being addressed by informal enforcement actions.

RCRA - Tribal Lands

The RCRA program in cooperation with the regional Indian Coordinator identified potential RCRA non-notifiers on Tribal lands and conducted seven potential non-notifiers inspections in these areas. No major violations were found during any of the aforementioned inspections. However, compliance assistance was provided to the facilities in the instances where minor violations or potential future violations were noted. Pollution prevention options were also discussed with the facilities that were inspected.

RCRA - Persistent Bioaccumulative & Toxic Chemicals

In the FY99 OECA MOA Guidance, OECA encouraged the Regions to focus compliance and enforcement activities on Persistent Bioaccumulative and Toxic (PBT) chemicals where possible. In addition, one of the Agency's GPRA goals is preventing pollution and reducing risk in communities, homes, workplaces and ecosystems. Within RCRA, one of the objectives under this goal is to reduce the toxicity of waste generated by focusing on the reduction of PBT chemicals. During FY99, the RCRA program in cooperation with the Region's Environmental Accountability Division (EAD) delineated a potential universe for PBT RCRA facilities. Industries which are the most frequent generators of Mercury and Benzo(a)pyrene were determined. Wood Preservers were determined to generate the most benzo(a)pyrene-contaminated waste. RCRA conducted thirty inspections at facilities that potentially generate PBTs, mainly at Wood Preservers due to the large number of these facilities in the southeast. Of the thirty inspections conducted at PBT generating facilities, four were determined to be in significant noncompliance with pending enforcement actions. Several other had minor violations that were addressed with a notice of violation.

RCRA - Commercial Hazardous Waste Handlers

The RCRA program has received several complaints from the states and general public regarding commercial hazardous waste handlers management practices. During the last three quarters of FY99 the RCRA program conducted 19 inspections at commercial hazardous waste handlers. At this time, the RCRA program is evaluating the results of the aforementioned inspections to determine if they indicate a noncompliance trend on a corporate level.

RCRA - Metal Finishers

Outreach and Public Education - The RCRA program is the lead in Region 4 for the Common Sense Initiative for the Metal Finishing Sector. Region 4 has developed a regional workplan which complements the National Goals Program developed for metal finishers. On June 29, 1999, the RCRA program hosted a Region 4 Metal Finishers Stakeholder Conference in Charlotte, North Carolina. The Stakeholders included the CAA and RCRA programs from the Regional Office, EPA HQ, the States of North Carolina, Florida, and Georgia, local governments from Broward County in Florida, POTWs, industry, and trade associations. The purpose of the conference was for all stakeholders to get to know and meet each other, to get a better understanding of the National Strategic Goals Program for Metal Finishers, and to understand the role of each Region 4 stakeholder as it pertains to the National Strategic Goals Program.

The meeting was attended by more than 50 stakeholders and was deemed a success. Numerous presentations were made by the various stakeholders, including facility representatives. The meeting was successful due to the great turn out of all stakeholders, as well as the commitments from

numerous parties to continue to partner and work together to accomplish the goals set forth in the National Strategic Goals Program.

Compliance Monitoring - As part of EPA's Common Sense Initiative, during FY98/99 Region 4 focused resources on the Metal Finishing Sector. The RCRA program was an active participant during FY98/99 by conducting 43 inspections in support of this initiative. Of these facilities, 21% were found to be in significant noncompliance. Where possible, the program is negotiating with companies that have enforcement actions underway to try to reach settlement through Supplemental Environmental Projects (SEPs) that are directly linked to pollution prevention projects.

SDWA - PWSS Microbials

The transient noncommunity water systems initiative presented an opportunity to assist the State of North Carolina in educating the owners/operators on the Surface Water Treatment Rule (SWTR). While inspecting transient systems, enforcement officers explained the SWTR governing microbials and their effect on transient systems. The enforcement officers distributed information on how to perform bacteriological analysis, sample requirements, sampling techniques, sampling tips, and a list of certified drinking water laboratories. Inspectors demonstrated sampling procedures and collected the initial sample for those systems that had not done so. The samples were delivered to the laboratory in an effort to bring these systems into compliance.

Additionally, the inspectors distributed information on methods of disinfecting contaminated non-community well water systems including both drilled and bored wells. The inspectors also distributed information concerning monitoring requirements and general information, including base requirements, triggers that increase monitoring, how to conduct increased monitoring, triggers that return a system to base monitoring, and triggers that reduce monitoring below base requirements for coliform bacteria, nitrite, and nitrate.

This project was successful in getting initial sanitary surveys for a number of transient systems and starting the return to compliance process. As a result, the sanitary surveys have been completed for all inventoried transient systems. However, the State has in excess of 4000 potential transient non-community systems and therefore, a large number of systems remain to be inventoried and surveyed. EPA Region 4 will continue to assist the State as resources allow.

SDWA - PWSS SDWIS Data

Region 4's Drinking Water Data Management Team undertook quality assurance procedures that were later adopted in the national data reliability action plan. The Team conducted four data

verifications during FY99 in Tennessee, Kentucky, Georgia, and for Region 4 Tribal Lands. Additionally, the Data Management Team has begun tracking SDWA implementation and performing compliance determination and data analysis services for Region 4's Drinking Water Tribal Oversight Team.

A major emphasis of the national data reliability program is the seamless transfer of data to SDWIS/FED. Region 4 has committed to using this product and promoting its use by Region 4 primacy states. The Team is exploring ways to facilitate bringing Tennessee back into the SDWIS/STATE family of users during FY2000. We are also exploring an Internet-based option for maintaining the system for states like Mississippi.

SDWA - North Carolina PWSS Transient Initiative

The Region's SDWA enforcement program committed to an initiative with North Carolina to inventory all the transient non-community water systems and bring them into compliance by June 1999. EPA agreed to assist the State with the inspection and enforcement of transient systems, and EPA Headquarters provided contractor support. EPA contracted with SAIC to conduct inspections in Granville, Chatham, and Person Counties. Additionally, a team of drinking water enforcement officers traveled to North Carolina on three occasions to inspect additional transient systems in Johnston and Rutherford Counties. The inspectors identified/verified the existence and status of 204 transient water systems.

As a result of the assistance provided to the State, North Carolina has referred 28 systems to EPA for follow up enforcement. To date, eight Administrative Orders have been issued to North Carolina transient systems, fifteen systems were found to be in compliance and need no further enforcement action, and five systems are under review. EPA will continue to conduct follow-up enforcement on the transient systems and assist the State as needed to bring these systems into compliance.

SDWA - R4 PWSS 1996 Amendments strategy

Region 4's Area-Wide Optimization Program (AWOP) is a multi-state effort to optimize particle removal and disinfection capabilities of filtration water treatment plants in order to maximize public health protection from microbial contaminants. Major components of the program include establishing and implementing procedures for prioritizing water treatment plants in terms of their need for assistance, choosing tools for assisting systems in need, and working with the systems to optimize treatment performance.

Four states—Alabama, Georgia, Kentucky, and South Carolina—are involved in the program. Each state tailors its optimization approach to fit its own drinking water framework and priorities. Quarterly meetings provide an opportunity for the states to share information about what works and does not work as we move through the process, with the goal of developing the best possible approach for each state.

The latest AWOP quarterly meeting was held September 21-23, 1999, in Cartersville, Georgia. The meeting revealed that each state has achieved several milestones in the process. All have developed a scheme for prioritizing systems to work with, collected background data to evaluate baseline performance of systems, and are working with systems to achieve optimized performance using various tools, including enhanced sanitary surveys and Comprehensive Performance Evaluations. Helping systems meet optimized performance goals (filtered water turbidity values of 0.1 ntu or less 95% of the time) helps ensure high compliance rates with turbidity requirements of the Enhanced Surface Water Treatment Rule.

SDWA - UIC Class II Strategy

The Region's SDWA-UIC enforcement program has initiated an agreement with Region's Emergency Response program to plug all abandoned injection wells that occur in or near an area where Emergency Response is using Coast Guard funds to plug abandoned oil production wells that are flowing or leaking into waters of the United States. These wells (both production and injection) are being plugged according to EPA's specifications to ensure that they will no longer pose an environmental risk.

SDWA - UIC Class V Initiative

The Region 4 implementation of Class V initiatives in Kentucky and Tennessee is an ongoing effort. Outreach material was developed and distributed by EPA personnel. During this initiative, recommendations and follow-up inspections were conducted to evaluate compliance at injection facilities. Appropriate enforcement actions were taken against endangering injection well facilities. The Region is continuing to promote the UIC program capacity development with Kentucky and Tennessee.

SDWA - UIC / CWA Karst Initiative

A small work group within the Safe Drinking Water Act Enforcement program was created to identify an initial list of permitted NPDES facilities located in karst areas. The workgroup will continue to determine noncompliance with UIC regulations and to address programmatic inconsistencies between the UIC and NPDES authorities for permitted facilities in karst areas. Limited resources and

completion of other initiatives have delayed the specified efforts identified in the MOA.

TSCA - Asbestos/MAP

During FY98-99, the MOA guidance specified that the TSCA program should concentrate on conducting inspections and enforcing the revised Model Accreditation Plan (MAP) requirements for asbestos workers in public and commercial buildings. The guidance provides that at least 25 percent of the asbestos inspections conducted by Region 4 and the states should focus on ensuring compliance with the asbestos MAP.

Since the National Emission Standard for Hazardous Air Pollutants (NESHAPs) for asbestos is a state implemented program, all notifications related to asbestos removal are forwarded to the state agency. These notices are required to be sent to the state agency ten days ahead of work commencement. By the time the state receives these notices, there is no time to coordinate with EPA regarding EPA conducting a MAP inspection. In the case of the three states (Kentucky, Mississippi, and North Carolina) that are participants in the asbestos in schools cooperative agreement program, the states conducted NESHAPs, MAP, and asbestos-in-schools inspections. At least 25 percent of the total inspections involve MAP inspections. The Region also provided oversight and assistance to two other states (South Carolina, and Florida) on MAP implementation. In the case of Region 4, EPA is able to conduct some MAP inspections based on our receipt of tips/complaints, but this effort is very limited due to resource constraints.

TSCA - PCB Mega-amendments

The FY98/99 MOA guidance identified that the TSCA program should concentrate on providing compliance assistance to the regulated community to promote compliance during the first year following the promulgation the PCB disposal amendments. The rules were promulgated on June 29, 1998, becoming effective on August 30, 1998.

Toxics staff responded to hundreds of calls regarding the implementation/ interpretation about the new rule. In addition, during FY98 four presentations were given on the new rule including two to the PCB programs in Alabama and Kentucky, one to federal facility personnel at a federal facility workshop, and one at a electric utility workshop. In FY99, a PCB Mega amendments compliance assistance workshop was held during November 1998. More than 100 persons attended the two-day workshop, and EPA received very positive feedback on the workshop. In addition, Region 4 staff participated as a principal instructor at several other workshops sponsored by EPA Headquarters on the PCB rule amendments for other EPA Regions and for other Agencies such as the Department of Energy (DOE). Additional workshops were conducted with the Commonwealth of Kentucky and the Alabama Department of Environmental Management PCB programs. During FY 2000, staff will

participate in one or more DOE sponsored workshops and may also participate in one additional workshop in south Alabama which will likely include participants from Mississippi and northern Florida.

TSCA - Lead-based paint

Over the two-year MOA period, the lead-based paint program developed a neutral administrative inspection scheme for targeting compliance inspections in high risk areas, based on census data and data of childhood lead poisoning prevalence from state health departments. The Region also met with the Geographical Information System Specialist from the U.S. Centers for Disease Control and Prevention to develop better mechanisms to target inspections for the Real Estate Notification/Disclosure Rule. The Region conducted 87 Real Estate Notification and Disclosure Rule inspections during FY98/99. Eighteen of the inspections were conducted in response to tips and complaints. Seven information request letters were mailed out in response to tips and complaints.

TSCA - Capacity building Section 404/402

The States of Alabama, Georgia, Kentucky, North Carolina and Mississippi have initiated state-run lead-based paint accreditation and certification programs in lieu of an EPA federally-run program for Sections 402/404 of TSCA. A model application kit was developed by the Region and presented to the states to assist the states in understanding the application process and to encourage consistency in application submittals. During FY99 the State of Tennessee and the Mississippi Band of Choctaw Indians Tribal Counsel passed legislation/Tribal resolution creating a lead-based paint certification and accreditation program. The Region also conducted on-site visits during both fiscal years to overview progress of all State programs receiving lead-based paint enforcement and program cooperative agreements.

The Region has been working with the State of Mississippi to address concerns that the State's audit privilege and immunity law would hamper development and implementation of an adequate enforcement program as part of the Mississippi Lead-Based Paint Program. Due to EPA's concerns, EPA informed the State that the Agency would be willing to consider a request for interim approval of the Lead-Based Paint Program instead of final approval. Based upon that Agency position, during FY99 the State of Mississippi withdrew their original application for a final Accreditation and Certification Program and self-certified that their State program was adequate for an interim program.

TSCA - Compliance Assistance to Section 402 Training Providers

Region 4 has initiated compliance assistance activities and implementation of the federal 402

Training and Certification program. By the end of FY99, four training providers had been reviewed and accredited to teach lead-based paint activities courses in the Region, three training providers were disapproved, and one review was ongoing. A training provider fact sheet was developed that explains accreditation requirements and deadlines, and the fact sheet was mailed to all known asbestos and lead training providers in the Region. The Toxics program also offered bilingual assistance to the program, conducting Spanish translations of training provider applications and offering assistance to the Spanish speaking regulated community.

TSCA - Core TSCA Imports Inspections Targeting Effort

Region 4 has invested significant resources in attempting to break down the barrier that exists between EPA and the U.S. Customs offices as it relates to data on importers of record. It is believed that there are many individuals importing chemicals into the United States that are subject to TSCA review, but are not being captured by the premanufacture review process. The regional U.S. Customs offices have informed us that approximately 90 percent of the materials that are being imported have a negative TSCA declaration. Experience with review of the submittals which came in as part of the 1994 Inventory Update Rule (IUR) indicates that approximately 25 percent of the chemicals reported as part of the IUR were imported chemicals. This indicates that in all likelihood that a significant amount of chemicals that are being imported are subject to TSCA, and likely are being reported as not subject to TSCA in the declaration provided to Customs.

Over the past two fiscal years, the TSCA program has met with Customs' officers at four different ports of entry in Region 4 to provide an overview of our program objectives and requirements, while at the same time, learning about their operations and mandates. This effort has been very well received by Customs and may ultimately result in some excellent enforcement leads. However, EPA has not been able to gain access to their importer-of-record database to review it for inspection/enforcement leads. In the absence of this information, a separate .targeting methodology for addressing import inspection targeting has been implemented. The following sources are being used to target Core TSCA inspections at chemical importers/exporters in Region 4: (1) the 1999 American Big Businesses Directory-Volume 3; (2) the 1994 IUR Database; (3) 12(b) Notices; (4) the 1999 Telephone Directory (yellow pages); (5) Chemical Week's 1998 Buyer's Guide; and (6) the 1998 Georgia Manufacturers Directory. During FY2000, the Region is continuing to use this targeting strategy for all inspections. This strategy has also been shared with headquarters and other regions.

TSCA / FIFRA Children's Health Issues

Children's Pesticides, Asbestos and Lead (PAL) Initiative - EPA Region 4 has continued its efforts with the development of a community outreach and education pilot in Baldwin County, Georgia to help address environmental exposures, such as pesticides, asbestos, lead, polychlorinated

biphenyls, environmental tobacco smoke and radon, that impacts children's health. This community-based program utilizes resources in the community and government to help empower families and neighborhoods to take better care of their children's environment. As a result of our experience in Baldwin County, Georgia, we are expanding the PAL pilot to Birmingham, Alabama.

As part of the initiative, Region 4 has provided training, information and outreach material to the community advisory board (representing the health care, business, minority, local government, housing and education community sectors). During FY 98 and 99, we participated in six education and outreach activities reaching several thousand school children, health care providers and the community. Additionally, we developed new outreach material and programs to address children's environmental health hazards for these and other communities.

UST - 12/22/98 Strategy

During FY99, four civil administrative cases were filed under Subtitle I of RCRA (Coastal Petroleum, GA, RCRA-UST-99-001; F.A Sims Oil Co., GA, RCRA-UST-99-002) Duck River Utility, TN, RCRA-UST-99-003; and Jerry Carter, GA, RCRA-UST-99-0004). Three of the four actions involved private companies. The cases assessed penalties from $1,159 (Coastal Petroleum) to $71,000 (F.A. Sims) and addressed a variety of violations including: upgrade failures, line and tank leak detection and site assessment/remediation, concerning the storage and potential leaking/spilling of petroleum and hazardous substances.

These cases stemmed from an initiative begun by the Region in FY98. For FY98/99, Region 4 worked with each state to develop and implement policies that would maximize success in meeting the 12/22/98 Underground Storage Tank (UST) upgrade deadline under Subtitle I of the Resource Conversation and Recovery Act (RCRA). Region 4 also focused on taking appropriate enforcement action, when necessary. In mid FY98, a concentrated two-week inspection initiative was conducted statewide in Georgia. The aim of this effort was to emphasize the existence of Federal EPA enforcement presence in states so that tank owners would realize the need for deadline compliance. EPA not only issued numerous Field Citations at the time of the initial inspections, but follow-up enforcement actions continued into FY99. Nearly 200 inspections lead to 29 field citations and three administrative orders. As a result, the Region 4 states have reported compliance rates from 88% to 99% with the 1998 upgrade requirements.